TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 458

MILTON COVERDALE, SHERIFF AND EX-OFFICIO TAX COLLECTOR, APPELLANT,

vs.

ARKANSAS-LOUISIANA PIPE LINE COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF LOUISIANA

FILED SEPTEMBER 20, 1937.

11

Petitioner shows that on or prior to August 31st, 1933, it made a return to the Supervisor of Public Accounts in accordance with the purported requirements of Act No. 6 of the legislature of Louisiana for the year 1932, setting forth in detail all information as required by that statute as to the machinery and equipment maintained and operated at its Munce Compressor Station over a period extending from August 1st, 1932, to July 31st, 1933, a copy of which return is attached hereto and made part hereof.

12

That at the time of such rendition and to avoid a forced sale of the property of petitioner, which, under the said statute of 1932 is provided for without hearing permitted to tax debtor, petitioner paid to the Supervisor of Public Accounts the sum of Three Thousand One Hundred Eighty-four ($3,184.00) Dollars purported to be imposed under the prime mover or power tax referred to, which was computed as to the equipment at the Munce Compressor Station upon the actual capacity of such machinery multiplied by the number of hours of use.

[fol. 5] 13

That on July 25th, 1934, Alice Lee Grosjean, Supervisor of Public Accounts, unlawfully demanded of petitioner as due under the provisions of Act No. 6 of 1932 the payment of the additional principal sum of Seven Thousand Three Hundred Sixteen ($7,316.00) Dollars claimed to be the balance of the prime mover tax due because of the operation of petitioner's engines and machinery at the Munce Compressor Station for the year ending July 31st, 1933, together with a penalty thereon of twenty-five per cent. (25%) (One Thousand Eight Hundred Twenty-nine and No/100 ($1,829.00) Dollars), or a total of Nine Thousand One Hundred Forty-five and No/100 ($9,145.00) Dollars, with ten per cent. (10%) upon principal and penalty as attorney's fees, and caused to be recorded in the Mortgage Records of Ouachita Parish on July 24th, 1934, her sworn statement setting forth the details of her demand, which, under the provisions of Act No. 6 of 1932 operates as a mortgage and lien upon all property of petitioner in that parish.

14

That the amounts so demanded were arrived at by the Supervisor of Public Accounts by Calculating the total manufacturer's rated horsepower of the engines owned by complainant at the Munce Compressor Station during such period (Ten Thousand Five Hundred ($10,500.00) Dollars) at the rate of One ($1.00) Dollar per horsepower, less the amount paid by petitioner as alleged.

15

That on September 8th, 1934, Milton Coverdale, Sheriff of the Parish of Ouachita, purporting to act pursuant to the provisions of Act No. 6 of 1932 illegally seized the property of petitioner located in the Parish of Ouachita and has advertised the same for sale on October 20th, 1934, [fol. 6] to pay and satisfy the demands unlawfully made by the Supervisor of Public Accounts, hereinabove referred to.

16

Petitioner shows that the amount of the tax claimed and penalties thereon are unlawful and illegally demanded, for the reason that said Act No. 6 of the Legislature of Louisiana for the year 1932 in so far as it purports to levy the tax demanded of petitioner is unconstitutional, illegal and void for the following reasons:

(a) That the statute contravenes Article 1, Sections 8 and 10 of the Constitution of the United States, reserving to the Congress of the United — the sole power to regulate commerce between the several states in that the tax so demanded is a license or privilege tax upon the use of an instrumentality employed by petitioner in interstate commerce without the operation of which it could not so engage in the interstate business described and is a direct burden upon such interstate commerce.

(b) In the alternative, petitioner shows that should the equipment and machinery described not be considered as an essential and necessary instrumentality of the interstate business conducted by petitioner, that it is an essential and necessary instrumentality for the production of gas in the Monroe and Richland fields as described herein, upon which all severance taxes were paid for the period in

question; and that the Legislature was without authority to place any license or privilege tax upon the use of any instrumentality necessary for the production of gas and could not, since such severance taxes are levied in lieu of all other taxes upon the right to produce natural gas, divide such business into several parts and tax any component part thereof contrary to the provisions of Article 10, Sec- [fol. 7] tion 21 of the Constitution of 1921.

(c) In the alternative, that Act No. 6 of 1932 does not purport to levy a license or privilege tax upon any business conducted by petitioner nor is the tax measured by the extent of power generated or produced, but is imposed directly upon the machinery and equipment owned by petitioner according to the character and capacity thereof, upon which it has paid all ad valorem taxes imposed under the laws of the state, is a property tax exceeding the rate provided by Article 10, Section 3 of the Constitution of 1921, constitutes double taxation, and is contrary to the provisions of Article 10, Section 1, of the Constitution of 1921, which requires that all taxes shall be equal and uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax; and that other property of the same character not being subjected to similar taxes, petitioner is denied the equal protection of the laws required by the Fourteenth Amendment to the Federal Constitution.

(d) Further, in the alternative, petitioner shows that if the tax in question be considered as a license or privilege tax, that being based directly upon potential capacity of the machine or engine upon which it is levied and without regard to the use thereof, the tax is not classified, graduated or progressive as required by Article 10, Section 8, of the Constitution of 1921.

(e) That the statute in question denies to petitioner the equal protection of the laws guaranteed by the Fourteenth Amendment to the Federal Constitution in that those who purchase power are subjected to a lesser rate of taxation than imposed upon petitioner, the owner of machinery from [fol. 8] which the power necessary in the conduct of its business is generated.

(f) That the statute in question denies to petitioner and those similarly situated the equal protection of the laws

guaranteed by the Fourteenth Amendment to the Federal Constitution in that it arbitrarily discriminates against petitioner and others similarly situated and in favor of persons and corporations purchasing power in the form of electric energy in the conduct of similar business enterprises by exempting such other persons and corporations from the payment of a tax upon engines owned, maintained and used by them as "stand-by" or emergency facilities, when petitioner and those in similar circumstances having and maintaining such "stand-by" or emergency facilities are granted no exemption therefor.

17

Petitioner shows that the system and scheme uniformly employed by the Supervisor of Public Accounts in fixing the amount of taxes demanded under the statute in question is to arbitrarily assume the capacity of machinery employed as the original manufacturer's rated horsepower without regard to the obsolescence and depreciation of particular machines; that such scheme and system discriminates against those owning and using machinery having from use thereof a diminished capacity and particularly so discriminates against petitioner with regard to the tax demanded because of the machinery employed at its Munce Compressor Station, denying to it the equal protection of the laws guaranteed by the Fourteenth Amendment to the Federal Constitution; and the statute in question, granting no opportunity to be heard as to the actual capacity of machinery employed, deprives petitioner of its property without due process of law guaranteed by the Fourteenth Amendment to the Federal Constitution.

[fol. 9]

18

Petitioner further shows, and in the alternative, that should the principal amount of the tax demanded be determined to be validly demanded, then that the penalty and attorney's fees demanded are illegal and unwarranted for the reason that petitioner has filed all returns required by law; and the statute in question makes no provision for the employment of an attorney in the enforcement of the collection of the tax sought to be imposed which is accomplished under the statute solely by levy and execution against the property of the tax debtor.

19

Petitioner further shows that the penalties and attorney's fees demanded are illegally demanded in that the statute in question grants no opportunity to be heard to any person subject to the tax with regard to the amount thereof to be ultimately assessed and for such reason denies to those against whom the tax is sought to be imposed, and particularly petitioner, the due process of law guaranteed by the Fourteenth Amendment to the Federal Constitution.

20

Petitioner shows that the laws of Louisiana provide no remedy under which petitioner might recover the tax illegally demanded of it should such tax be declared invalid; and that unless enjoined and restrained by order of this Honorable Court the said Milton Coverdale, Sheriff and Tax Collector of the Parish of Ouachita, will proceed to advertise and sell the property of petitioner to enforce the collection of the tax illegally demanded.

21

That petitioner has heretofore instituted an action against Milton Coverdale, Sheriff of the Parish of Ouachita, and Alice Lee Grosjean, Supervisor of Public Accounts, No. [fol. 10] 23,398 upon the docket of the Fourth Judicial District Court of the state of Louisiana in and for the parish of Ouachita, to enjoin the sale of its property as advertised by the Sheriff of Ouachita Parish, asserting and alleging therein that Act No. 6 of 1932 is unconstitutional and void for the several reasons herein set forth.

22

That the jurisdiction of the District Court of Ouachita Parish over the persons of the defendants in the suit referred to was challenged by exception to the jurisdiction and although such exception was overruled, application was made to the Supreme Court of the State of Louisiana for writs of certiorari and prohibition and alternative writs granted by that Court returnable on October 29th, 1934, making it impossible to proceed in said cause until the question of jurisdiction has been determined by the Supreme Court of the State.

23

That pending the consideration of the question presented by the Supreme Court of the State of Louisiana, Milton Coverdale, Sheriff of the Parish of Ouachita will illegally proceed to sell the property of petitioner to enforce the payment of the tax unlawfully demanded, with the result that your petitioner is denied its right to be heard upon the question of the validity of the tax sought to be collected and deprived of its property without due process of law, contrary to the provisions of the Fourteenth Amendment to the Federal Constitution.

24

That for the reasons alleged a sale of petitioner's property would cause it irreparable injury, whereas, the rights of the state of Louisiana can be protected by adequate bond; that the statute in question under which the tax described is demanded is manifestly illegal and that an injunction should be granted to protect the rights of petitioner, there [fol. 11] being no adequate remedy at law.

25

Petitioner further shows that the value of the property owned by petitioner situated in the Parish of Ouachita exceeds by many times the amount of the tax with penalties and attorney's fees sought to be collected; that the State can suffer no prejudice by the postponement of the sale complained of; and that petitioner, having no remedy to recover taxes paid by it to prevent said sale, would suffer irreparable injury unless such sale is restrained by order of this Honorable Court; that a temporary restraining order is necessary in the premises.

Wherefore, the annexed affidavits considered, petitioner prays that upon bond being furnished in an amount to be fixed by this Honorable Court a temporary restraining order issue herein upon the ground set forth in the above petition and to prevent irreparable damage to petitioner restraining Milton Coverdale and the deputies of his office from proceeding to sell any property of petitioner situated in the Parish of Ouachita to enforce the payment of taxes with penalties thereon asserted to be due the State of Louisiana under the provisions of Act No. 6 of 1932 for the

period August 1st, 1932, to July 31st, 1933; and that said temporary restraining order be made effective until the hearing of petitioner's application for an interlocutory injunction herein.

Petitioner further prays for a hearing for an interlocutory injunction against the said Milton Coverdale, Sheriff of the Parish Ouachita, in accordance with Section 266 of the Judicial Code of the United States (U. S. C. A. 28 § 380.) and that said Milton Coverdale, Sheriff of the Parish of Ouachita, be ordered to show cause on a day and hour to be fixed by this Honorable Court why an interlocutory in-
[fol. 12] junction should not issue herein enjoining, restraining and prohibiting him and the deputies of his office from proceeding to sell any property of petitioner situated in the Parish of Ouachita to enforce the payment of taxes and penalties alleged to be due the State of Louisiana under the provisions of Act No. 6 of 1932 for the period August 1st, 1932, to July 31st, 1933, and that Gaston Porterie, Attorney General of the State of Louisiana, be notified accordingly.

Petitioner further prays for service and citation hereof upon Milton Coverdale, Sheriff of the Parish of Ouachita, as the law directs, and that after due proceedings Act No. 6 of the Legislature of Louisiana for the year 1932 be declared unconstitutional and the taxes and penalties sought to be collected thereunder illegal and invalid; and that there be judgment in favor of petitioner and against the said Milton Coverdale, perpetuating the interlocutory injunction herein prayed for.

For all orders necessary and general and equitable relief.

Leon O'Quin, Blanchard, Goldstein, Walker & O'Quin.

[File endorsement omitted.]

[fol. 13] *Duly sworn to by W. H. Buckley and Leon O'Quin. Jurat, omitted in printing.*

[fol. 14] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER FOR TEMPORARY RESTRAINING ORDER, ETC.—Filed October 15, 1934

Whereas, in the above cause it is made to appear upon the bill of complaint that a writ of injunction preliminary to the final hearing is proper and that prima facie the complainant is entitled thereto, enjoining the defendant from the acts complained of and about to be committed;

It is therefore ordered that the defendant Milton Coverdale, Sheriff of the Parish of Ouachita, appear before the Judge of this District Court of the United States for the Western District of Louisiana and a judge of the Circuit Court of the United States and another district judge of the United States Court sitting to hear this matter on the 25th day of October, 1934, at 10:00 A. M., at the court room of United States District Court at New Orleans, Louisiana, and then and there show cause, if any he has, why the preliminary injunction prayed for in such bill of complaint should not issue; and it appearing that there is danger of irreparable damage being caused to the complainant before the hearing of said application for the preliminary writ of injunction can be had unless the defendant is, pending such hearing, restrained as hereinafter set forth; therefore, complainants application for a restraining order is granted upon its giving bond with good and sufficient surety to be approved by the Clerk of this Court in the penal sum of ten thousand and no/100 ($10,000.00) Dollars, securing the said defendant against all loss or damage which may result from the issuance of said order if it should be finally determined that the same was improperly issued or that it [fol. 15] may award to him by reason of the granting of said order.

Now, therefore, it is ordered that Milton Coverdale, Sheriff of the Parish of Ouachita, and the deputies of his office be and they are hereby specially restrained and enjoined until further order of this Court from proceeding to sell any property of the Arkansas-Louisiana Pipeline Company situated in the Parish of Ouachita to enforce the pay-

ment of taxes asserted to be due the State of Louisiana under the provisions of Act No. 6 of the Legislature of that state for the year 1932 for the period August 1st, 1932, to July 31st, 1933, with penalties alleged to be due thereon.

It is further ordered that a copy of this order properly certified by the Clerk of the Court be served on Milton Coverdale, and that Gaston Porterie, Attorney General of the State of Louisiana, be notified of the hearing herein on the application for an interlocutory injunction in accordance with Section 266 of the Judicial Code of the United States as amended.

Shreveport, Louisiana, this 15th day of October, 1934.

Ben C. Dawkins, Judge of the United States District Court in and for the Western District of Louisiana.

[fol. 16] IN UNITED STATES DISTRICT COURT

[Title omitted]

TEMPORARY RESTRAINING ORDER AND RULE TO SHOW CAUSE—Filed October 20, 1934

To Milton Coverdale, Sheriff of the Parish of Ouachita, Louisiana, a citizen and resident of the Parish of Ouachita within the Western District of Louisiana, Greeting:

By virtue of an Order issued out of the Honorable, the District Court of the United States for the Western District of Louisiana, in the above numbered and entitled cause on the docket of said Court, a copy of said Order and the application therefor, each duly certified under the Seal of said Court, accompanying this Writ; in the name of the President of the United States of America;

You, and each of you, your attorneys, agents, servants, and employees, and all other persons acting by or under your authority, direction, or control, are hereby specially Restrained, Enjoined, and Prohibited from proceeding to sell any property of Arkansas-Louisiana Pipeline Company situated in the Parish of Ouachita to enforce the payment of taxes with penalties thereon asserted to be due the State of Louisiana under the provisions of Act No. 6 of 1932 for the period August 1st, 1932, to July 31st, 1933, until the further orders of this Court; and,

You, and each of you, are hereby Commanded to Show Cause, if any you have or can, before said Court, at the City of New Orleans, Louisiana, at 10 o'clock A. M. on the 25th day of October, 192-, why a preliminary injunction should not issue as prayed for; and in all other respects, you are hereby commanded to comply with the directions contained in said Order.

Hereof fail not under penalty of the law.

Witness the Honorable Ben C. Dawkins, Judge of the United States District Court for the Western District of Louisiana, and the seal of said Court, at the City of Shreveport, Louisiana, on this 15th day of October, 1934, and the 159th year of American Independence.

E. C. Jackson, Clerk, by Mina E. Holt, Deputy Clerk.
(Seal.)

U. S. Marshal's Return

Marshal's Docket 4237

Date: Oct. 15, 1934.

Received Shreveport, La. Oct. 16, 1934. Executed Oct. 16, 1934, Monroe, La., by delivering certified copy of this Writ, together with certified copy of Bill of Complaint and Order to within named Milton Coverdale, Sheriff of Ouachita Parish, La., by handing same to C. D. Meredith, Chief Deputy Sheriff in the office of Milton Coverdale, Sheriff, said Sheriff being temporarily absent from office at time of service.

George W. Montgomery, U. S. Marshal, by W. C. Ivey, Deputy.

Service $2.00.

[File endorsement omitted.]

[fol. 17] In United States District Court

[Title omitted]

Order Continuing Restraining Order in Effect—Filed October 23, 1934

The application for a preliminary injunction herein having been refixed to be heard in the court room of the United

States District Court at New Orleans, Louisiana, on Friday, November 23rd, 1934, and it appearing that the postponement of such hearing will cause irreparable damage to plaintiff herein in the event that the temporary restraining order heretofore granted is not extended and an application having been made therefor;

It is Therefore Ordered, that the temporary restraining order heretofore issued be and the same is hereby extended to be in full force and effect as originally issued until the hearing on the application for preliminary injunction which has been set for November 23rd, 1934, at New Orleans, Louisiana.

It is Further Ordered that the defendant herein be notified of this order.

Done and Signed at Shreveport, Louisiana, on this the 23rd day of October, 1934.

Ben C. Dawkins, United States District Judge.

[File endorsement omitted.]

[fol. 18] In United States District Court

[Title omitted]

Opinion of Court—Filed April 15, 1935

Dawkins, J.:

In this case, identical provisions of the Act, No. 6, of the Louisiana Legislature for the year 1932, are attacked as unconstitutional for the same reasons urged in the case of Union Sulphur Company vs. Reid, Sheriff and Tax Collector, et al., No. 618 in equity, this day decided, and on the additional ground that they impose an undue burden upon interstate commerce. Defendant has filed an exception of non-joinder, in that the Supervisor of Public Accounts was a necessary and indispensable party defendant; and otherwise opposed the granting of the preliminary injunction upon the same grounds.

Decisions of the state court have repeatedly held that the validity of a tax may be contested against the sheriff and tax collector alone where he was proceeding to sell property [fol. 19] in execution of a tax lien. K. C. S. Railway Co. vs.

Skinner, 145 La. 25, 81 So. 743; L. & A. Ry. Co. vs. Tax Collector, 121 La. 997, 46 So., 994; Board of Trustees of Centenary College vs. Sheriff, 128 La., 257, 54 So., 790; Bud vs. Houston, 36 An. 959; see also U. S. vs. Lee, 106 U. S., 196.

The plaintiff in this case, like the Union Sulphur Company in No. 618, failed or refused to make a return, and the Supervisor determined the tax to be $7316.00 for the period ending July 31, 1933, added thereto 25% penalties under the statute and 10% attorney's fees, recorded a statement thereof as provided by the statute and had the sheriff seize and advertise the property of defendant for sale. The latter then filed suit in the state court, seeking to enjoin the sheriff and Supervisor of Public Accounts from selling its property, alleged to be worth $800,000, upon substantially the same grounds as urged here. The latter excepted to the jurisdiction of the district court for Ouachita Parish, on the ground that she should have been sued in the Parish of East Baton Rouge, her official domicile, and the place where she discharges her duties. The exception to the jurisdiction was overruled by the trial court and the Supervisor applied to the State Supreme Court for a writ of prohibition, which was granted, with a stay order and the trial judge was ordered to send the record up. This had the effect of releasing the sheriff and Supervisor from the effects of the restraining order granted by the lower court and they proceeded again with the advertisement of the property for sale; whereupon the plaintiff sought relief in this court in the present action. Upon the hearing by the Supreme Court of its supervisory writ thus granted, the stay order was recalled (after the present suit had been filed) and in passing upon the [fol. 20] plea as to the jurisdiction, the court has this to say:

"The ruling of that court in maintaining its jurisdiction is sanctioned by reason and supported by precedent. Plaintiff is engaged in business in the Parish of Ouachita and its property is there. The lien is recorded there and there it has effect against the property of the alleged debtor, and it is there that an attempt is being made to enforce it. The method set up by the act to enforce payment of the tax is the seizure and sale of the property of the tax debtor, and if a sale is made, it must be made where the property is situated. In sum, the enforcement or execution of the lien which came into existence by virtue of the recorded sworn statement made by the Supervisor of Public Accounts

must take place in the Parish of Ouachita, where the property is situated.

It is alleged, and not denied, that if the sheriff of Ouachita Parish is not restrained by the Court, he will sell Plaintiff's property, and it is alleged that a sale of plaintiff's property under this process will result in irreparable injury to it. It is manifest that plaintiff's only remedy was to enjoin the executing officer, the sheriff, from making the sale. The real object of the suit, therefore, was to obtain the injunction and the issue as to the validity of tax was raised by the injunction."

It then proceeded to cite and analyze numerous decisions, sustaining the jurisdiction of the lower court where the property was situated, and finally concluded:

"The reason for the rule is that when property is seized and about to be sold under process of this kind, the alleged debtor must arrest the sale in order to obtain relief, for if he allows his property to be sold and the tax collected, he has no remedy under the act to recover the amount, even if the tax should be held to be illegal. The suit for injunction is, therefore, the main demand and the invalidity of the tax is plead as a ground for the injunction. The court of East Baton Rouge Parish, where the Supervisor has her official domicile, would have no jurisdiction to arrest a sale about to take place in Ouachita.

If the sole purpose of the suit had been to reduce the assessment made by the Supervisor, or to correct it, the court at her domicile would have had jurisdiction, because she made the assessment there, and, if a change should be made, she would have to make it there, and the suit should be brought where she performs her official functions. N. O. G. N. R. R. Co. vs. Thomas, Assessor, et als., supra.

But in this case, the Supervisor did more than make the assessment; she caused it to be filed and recorded in the Parish of Ouachita, where the property affected is situated, and caused the sheriff to seize and advertise it for sale."

[fol. 21] We find the facts as follows:

Plaintiff is engaged in the transporting of natural gas purchased in this state from producers, and 96.6% of which is carried by pipe line into and sold in the states of Texas and Arkansas. The engines or "prime movers" are used in compressor stations for pumping said gas through its

lines. Having failed to make a return, the Supervisor determined the amount of the tax to be $7,316.00, added thereto the penalty of 25%, as well as 10% attorney's fees on the whole, recorded a statement thereof in the mortgage records and caused the sheriff and tax collector to seize and advertise for sale property valued at several hundred thousand dollars, in satisfaction thereof. Thereupon this suit was filed and a restraining order granted under the circumstances above set out.

The defenses are substantially the same as in the case of Union Sulphur Company against Reid, Sheriff and Tax Collector, No. 618, this day decided.

Conclusions of Law

We are of the view that the tax is invalid for the reasons given in the opinion in the Union Sulphur Company case, and also because it imposes an undue burden upon interstate commerce. The engines driving the pressure pumps which force the gas through the lines into other states are just as much instruments of interstate commerce as are the locomotives of an interstate railroad or the motive power of a ferry-boat operating across a river separating two states. So that even if the tax could be held a license tax it could not be sustained as to the business in which plaintiff is engaged. Helson vs. Kentucky 279 U. S., 245; [fol. 22] Sprout vs. South Bend, 277 U. S., 163; Glouster Ferry Co. vs. Pennsylvania, 114 U. S., 196; Pickard vs. Pullman Car Company, 117 U. S., 34; see also State Tax Commission vs. Interstate Natural Gas Company, 284 U. S., 41; Pennsylvania vs. West Virginia, 260 U. S. 553; West vs. Kansas Natural Gas Company, 221 U. S., 229; Pennsylvania Gas Company vs. Public Service Commission, 252 U. S. 23.

For the reasons assigned, the preliminary injunction will be granted.

Rufus E. Foster, U. S. Circuit Judge. Ben C. Dawkins, U. S. District Judge. Wayne G. Borah, U. S. District Judge.

[File endorsement omitted.]

[fol. 23] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION FOR REHEARING AND NEW TRIAL—Filed April 26, 1935

To the Honorable the Judges of Said Court:

Now into Court, through undersigned counsel, comes Milton Coverdale, Sheriff and Ex-Officio State Tax Collector, made respondent in the above styled and numbered cause, and moves that a rehearing and new trial of this cause be granted and that the interlocutory decree entered, and preliminary injunction granted, herein on April 15, 1935, be recalled, vacated and set aside for the following reasons, to-wit:

1

The Court is in error in holding or maintaining that the tax levied by Act 6 of the Regular Session of the Louisiana Legislature of 1932 is a property tax.

2

The Court is in error in not holding or maintaining that the tax levied by said Act is an excise, license or privilege tax.

[fol. 24]

3

The Court is in error in holding or maintaining that said Act violates the due process clause of the Fourteenth Amendment to the Federal Constitution, in that it makes no provision for a hearing or review of the action of the Supervisor of Public Accounts in determining the tax.

4

The Court is in error in holding or maintaining that the tax levied by said Act being unconstitutional because it imposes an undue burden upon interstate commerce under the facts of this case.

Your respondent further shows that in connection with this application for a rehearing and new trial, a brief in support thereof will be filed within the time limit fixed by

this Honorable Court, and that, for the reasons hereinabove set forth, and amplified in the brief, a rehearing and new trial should be granted, and, finally the interlocutory decree and preliminary injunction granted herein should be recalled, vacated and set aside.

The premises considered, respondent prays that, after due consideration, a rehearing and new trial be granted in this cause, and that, finally, the interlocutory judgment and [fol. 25] preliminary injunction granted herein be recalled, vacated and set aside and for general and equitable relief.

Gaston L. Porterie, Attorney General of the State of Louisiana. Justin C. Daspit, Special Assistant to Attorney General. F. A. Blanche, Special Assistant to Attorney General. E. L. Richardson (by J. C. D.). A. L. Davenport (by J. C. D.), Attorney for Sheriff and Ex-Officio Tax Collector of Ouachita Parish. J. B. Dawkins (by J. C. D.), of Counsel.

[fol. 26] *Duly sworn to by Justin C. Daspit. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 27] IN UNITED STATES DISTRICT COURT

[Title omitted]

OPINION OF COURT GRANTING NEW TRIAL—Filed July 26, 1935

DAWKINS, D. J.:

After due consideration of the motion for a new trial in the above numbered and entitled cause, and in view of the decision of the Supreme Court of the State of Louisiana, in the case of State ex rel. Gaston L. Porterie, et al. vs. H. L. Hunt, Inc., No. 33450 on the docket of said court, involving similar issues, it is the opinion of this court that said motion should be granted and it is accordingly so ordered.

Rufus E. Foster, Circuit Judge. Ben C. Dawkins, District Judge. Wayne G. Borah, District Judge.

[File endorsement omitted.]

[fol. 28] IN UNITED STATES DISTRICT COURT

[Title omitted]

OPINION OF COURT ON NEW TRIAL—Filed February 4, 1936

Before Hutcheson, Circuit Judge, and Dawkins and Borah, District Judges

DAWKINS, District Judge:

A rehearing was also granted in this case because of the decision of the Supreme Court of the State in State Ex Rel Porterie, et al. vs. H. L. Hunt, Inc., 182 La. 1073, 162 So. 777, holding the tax in question to be a license rather than a property tax. We are bound by that conclusion. (Dawson vs. Kentucky Distilleries, 255 U. S., 296). However, this still leaves in this case the question as to whether, as a license tax, it imposes an undue burden on interstate commerce. [fol. 29] That natural gas, as well as crude oil, are commodities, which under proper circumstances become a part of such commerce, hardly needs the citation of authority. See West vs. Kansas Natural Gas Company, 221 U. S., 229; Pennsylvania Gas Co. vs. Public Service Commission, 252 U. S., 23; Pennsylvania vs. West Virginia, 262 U. S., 553. As stated in our former opinion, the plaintiff purchases its gas from producers in the Monroe and Richland fields, which passes through gathering systems to its pumping station at Munce, whence it is transported by the pressure of the pumps or machinery whose horse power is the subject of this license tax, to other states. From the moment of its acquisition through the meters in the field into the gathering lines, 96.6% of its volume starts on its journey by way of the pumping station and the twenty inch main into other states. The pumps or compressors are instrumentalities used to effectuate or accomplish that journey,—in fact, without them transportation of the gas in required quantities when the rock pressure is low, could not be made, since it is a substance which cannot be handled like crude oil, grain, etc. These engines, therefore, become the real and only motive power for its movement in interstate commerce. It is argued that the tax is laid upon the business of using or in business which uses power-producing engines rather than upon the machinery itself and that contention was sustained by the State court to distinguish it from a prop-

erty tax. Having thus determined it to be a li-ence tax upon a business or occupation, then it would seem clear that the business of this defendant cannot be carved into separate parts and a tax imposed upon one of those parts without affecting the other. It is a single entity, to-wit, the business of purchasing gas in one state and selling it in another, and [fol. 30] in order to do so, plaintiff must use this machinery as a means of transportation.

Much reliance is placed upon the case of Utah Power & Light Company vs. Pfost, 286 U. S., 165. However, the Supreme Court there found there was a distinction between the two operations of the defendant company, to-wit, the manufacturing and transporting and sale of electrical power. The tax was levied upon the manufacturing. The plaintiff had a plant whose turbines were turned by water power, and which in turn converted that power into electrical energy before it was possible to transport it out of the state. The first operation, the court said, was manufacturing, subject to local regulation and state control, notwithstanding, the energy after production, was transmitted instantaneously over wires to other states. There is no such condition in the present case, as the gas is gathered and transported in its original state, just as a freight train might pick up carloads of cotton at stations on a railroad line and carry them into other states; and if this tax can be imposed according to the number of horse power of the engines, there could be no rational reason why it could not likewise be done on the basis of number of feet or miles of pipe used. In State Tax Commission of Mississippi vs. Interstate Natural Gas Company, 284 U. S., 41, the state had imposed a license or privilege tax "upon each person engaged or continuing in the business of operating a pipe line or transporting in or through the state oil or natural gas, through pipes." The tax was measured and graded according to the number of miles and size of pipe so used. The gas was purchased from producers in Louisiana and transported and sold in Mississippi. The gas company sold to consumers in Louisiana from 70 to 75 millions cubic feet per day and to those in Mississippi from 204 million to 520 million feet per day, and in holding the tax unconstitutional, the Supreme Court, in part, had this to say:

"The gas flows continuously from the gas fields in Louis-
[fol. 31] iana and obviously for much the greater part at

least, in interstate commerce. But the appellees rely upon business done under two similar contracts made in New York, to show that there was intra-state commerce in Mississippi that may be taxed without burdening the main activity that the State cannot touch. * * * Distributing companies tap the plaintiff's pipe near Natchez and the town of Woodville. The gas withdrawn by the distributors is measured by a thermometer and a meter furnished by the plaintiff, which is the only way in which it can be measured. The pressure of the gas is reduced by the plaintiff before it passes into the purchaser's hands. The work done by the plaintiff is done upon the flowing gas to help the delivery and seems to us plainly to be incident to the interstate commerce between Louisiana and Mississippi. The plaintiff simply transports the gas and delivers it wholesale not otherwise worked over than to make it ready for delivery to the independent parties, who dispose of it by retail."

The judgment of the lower court holding the tax illegal as imposing an undue burden upon interstate commerce was affirmed. If a license tax, measured by the number of miles and size of the pipe used, constituted a burden upon the interstate commerce of transporting and selling the gas, how can it be said that a similar license tax, determined by the horse power of the engines used in propelling it through such pipes, is not likewise a burden upon such commerce? We are unable to see any distinction.

Another case which appears clearly applicable in principle, is that of Cooney vs. Mountain States T. & T. Co., 294 U. S. 384. There the State of Montana imposed a license or occupation tax upon everyone "engaged in the business of operating or maintaining telephone lines and furnishing telephone service in the State * * * for each telephone instrument used, controlled and operated by it in the conduct of such business, based upon the number of telephone instruments owned, controlled and operated by it during [fol. 32] all or any part of the calendar year", beginning at ten cents per instrument and increasing according to the number so used, up to one dollar. The tax was assailed as imposing a burden on the interstate business of the plaintiff. Plaintiff owned 34,000 telephones and of these "more than 10,000 have actually been used in interstate and for-

eign commerce * * *; plaintiff pays the usual property taxes in Montana and also the corporation license or occupation taxes, which are a percentage of its intra-state revenues * * * ". It was contended the tax was imposed solely upon intra-state commerce and that it did not burden interstate commerce. However, the court found that the manner in which the tax was imposed, based upon the number of instruments, a large proportion of which were used in interstate commerce, necessarily caused it to operate upon an instrumentality used in interstate commerce; and since no means were provided in the law for separating the two kinds of business, that is intra and interstate, it would have to be held invalid as a whole, when applied to the business of the plaintiff. Here again we can see no distinction between a license tax based upon the number of telephones used, regardless of the frequency thereof, or revenue produced, and a similar tax gauged according to the horse power of engines likewise used for propelling natural gas through an interstate pipeline. There the telephones were used in the interstate commerce of communication; whereas, here, the engines are employed in the interstate transportation of natural gas to consumers in other states.

Our conclusion is that the tax assailed in the present case imposes an undue burden upon interstate commerce and is, therefore, invalid as to this complainant. A preliminary writ of injunction should issue.

Proper decree should be presented.

[fol. 33] DISSENTING OPINION

HUTCHESON, Circuit Judge, dissenting:

The primary purpose of the statute appears to have been to impose a license tax upon the production of power. It thus imposed not a property, but an excise or privilege tax. Union Sulphur Co. vs. Reid, this day decided. State ex rel Porterie vs. Hunt, 62 So. 777; Bromley vs. McCaughan, 290 U. S. 124.

The majority concludes that because the tax is a privilege, and not a property tax, and falls on the generation by complainant of power, used in part to gather gas in to, and

in part to transport it through its transportation lines, it is a direct, an undue burden on interstate commerce. I do not think so.

The majority considers the tax a license tax upon the business or occupation of transporting gas in interstate commerce; that is, the business of purchasing gas in one state and selling it in another. I do not think so. If I could agree that the tax was occupational, levied on the general business of complainant, that of acquiring and conducting gas interstate, I could agree with the majority that the case is ruled by Cooney vs. Mountain States T. & T. Co., 294 U. S. 384, and that the tax is invalid. I cannot, however, agree to this. I think it quite plain that the tax is not imposed on complainant as a license tax, for the general privilege of transacting its business. It is exacted as a specific privilege tax, for the privilege of generating power in the State. It does not at all fall upon or condition its privilege of conducting the business of transporting gas interstate.

In the Cooney case this distinction is made clear. There is said "There is no question that the State may require payment of the occupation tax from one engaged in both intrastate and interstate commerce." c/f East Ohio Gas Co. vs. Tax Commission, 283 U. S. 465, "But a State cannot tax interstate commerce; it cannot lay a tax upon the [fol. 34] business which constitutes such commerce, or the privilege of engaging in it."

The statute under attack here does not undertake to, it does not, lay a tax upon the business which constitutes interstate commerce, or the privilege of engaging in it. It exacts of complainant, who is engaged in both intra and interstate commerce, as well as of all others in the State of Louisiana similarly situated as to the use of prime movers, a privilege tax upon the generation of power in Louisiana. The uses of that power are not taxed. The business in which the power is generated is not taxed. The generation of the power, and that alone, is taxed. The measure of it, is the horse power capacity of the "prime movers" employed to generate it.

The majority regards as inapplicable Utah Power & Light Co. vs. Pfost, 286 U. S. 165. I think that case controlling. There the generation of electrical energy which was the subject of the tax was followed immediately by its

transmission to other states. Here, as there, the tax is upon the production of energy. Here, as there, that production is taxable, for here, as there, the tax is laid on the manufacture or production of energy, and not on its transfer or conveyance to distant states. Here, as there, the tax is laid upon the generation of power as a distinct act of production, and without regard to its subsequent use. Here, as there, so far as complainant produces energy in Louisiana, its business is purely intrastate, subject to State taxation and control. It is only in transmitting as across the State lines by the use of this power that defendant is engaged in interstate commerce.

Other cases supporting this view are, Oliver-Iron Mining Co. vs. Lord, 262 U. S. 172; Hope Natural Gas Co. vs. Hall, [fol. 35] 274 U. S. 284; Coe vs. Errol, 116 U. S. 517; c/f Federal Compress Warehouse Co. vs. McLean, 291 U. S. 17; Carson Petroleum Co. vs. Vial, 279 U. S. 95; Schechter Poultry Corp. vs. United States, 295 U. S. 495.

I am also of the opinion that defendant is right in its contention that if the tax may be held to be on interstate commerce, it falls on it not directly, but indirectly and therefore does not violate the Commerce Clause. Port Richmond vs. Board of Chosen Freeholders, 232 U. S. 317; Wiggins Ferry Co. vs. East St. Louis, 170 U. S. 365; State vs. Albert Mackie, 144 La. 339; Krauss Lumber Co. vs. Board of Assessors, 148 La. 1057; Baltic Mining Co. vs. Massachusetts, 231 U. S. 68; Hump Hairpin Mfg. Co. vs. Emerson, 258 U. S. 290.

When a tax is as here levied on all similarly situated, and in terms is not upon the business done, so that it appears on the face of the statute that "it is clear that it is not imposed with the covert purpose, or with the effect to defeat constitutional rights", Hump Hairpin Mfg. Co. vs. Emerson, supra, it is not a prohibited burden on interstate commerce. It is a valid exercise of the power of the State to tax.

With respect, therefore, I dissent.

[File endorsement omitted.]

[fol. 36] UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH JUDICIAL CIRCUIT

Joseph C. Hutcheson, Jr., U. S. Circuit Judge, New Orleans, La.

February 17, 1936.

Hon. Wayne G. Borah, United States District Judge, New Orleans, La.

DEAR JUDGE BORAH:

I am returning the decree in #615. I first signed it, but on reflection, I do not think I should dissent from the decree. In fact, I do not believe I can. The decree ought to follow the majority opinion, and I understand that my dissent from the opinion is sufficient, so I first signed it and then scratched out my signature.

I really do not believe it is necessary for the decree to be signed at all. It is not in our practice in Texas, and that may be why I am not able to say what is right in this case. At any rate, I have decided to leave my signature off altogether.

Sincerely yours, J. C. Hutcheson, Jr.

[fol. 37] IN UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF LOUISIANA

[Title omitted]

ORDER GRANTING AN INTERLOCUTORY INJUNCTION—Filed February 21, 1936

This cause having been heard at New Orleans, Louisiana on December 7th, 1935, before a statutory three judge court convened by the Honorable Ben C. Dawkins, United States District Judge for the Western District of Louisiana, by calling to his assistance the Honorable Joseph C. Hutcheson, Justice of the Circuit Court of Appeals for the Fifth Circuit, and the Honorable Wayne G. Borah, Judge of the District Court of the United States for the Eastern District of Louisiana, pursuant to Section 266 of the Judicial Code upon the application of Arkansas Louisiana Pipeline Company, plaintiff in the above entitled cause, for an interlocutory in-

junction, pursuant to its bill of complaint praying for an interlocutory and final decree enjoining and restraining the enforcement of Act No. 6 of the regular session of the Legislature of Louisiana for the year 1932, by enjoining the defendant, Milton Coverdale, Sheriff and Tax Collector of the Parish of Ouachita, State of Louisiana, from proceeding to sell property of plaintiff to enforce the collection of taxes imposed by said statute on the ground that the statute violates the Constitution of the United States in that the tax imposed thereby constitutes an undue burden upon interstate commerce, such hearing being further pursuant to an order granting a rehearing of an order directing the issuance of an interlocutory injunction by a statutory three judge court convened at New Orleans, Louisiana on November 23rd, 1934, after statutory notice thereof, and counsel having been heard as to the issues presented,

[fol. 38] It is Ordered, Adjudged and Decreed by said three judge court that an interlocutory injunction issue as prayed for enjoining and restraining the defendant, Milton Coverdale, Sheriff and Tax Collector of the Parish of Ouachita, State of Louisiana, his deputies and agents from proceeding to sell the property of plaintiff, or any portion thereof, situated in the Parish of Ouachita to enforce the payment of taxes with penalties thereon asserted to be due the State of Louisiana for the period August 1st, 1932 to July 31st, 1933, under the provisions of Act No. 6 of the regular session of the Legislature of Louisiana for the year 1932.

It is Further Ordered that plaintiff forthwith give a penal bond in the sum of Ten Thousand Dollars, and that said temporary injunction remain in full force and effect until final hearing of this cause and until the further order of this Court.

This — day of February, 1936.

Ben C. Dawkins, United States District Judge for the Western District of Louisiana. Wayne G. Borah, United States District Judge for the Eastern District of Louisiana.

Approved as to form:

E. L. Richardson, Attorney for Defendant Sheriff and Tax Collector.

[File endorsement omitted.]

[fol. 39] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER TO MERITS—Filed January 5, 1937

Now into Court comes Milton Coverdale, Sheriff and Ex-Officio Tax Collector for the Parish of Ouachita, made defendant in the above styled and numbered cause, and without waiving but specially reserving all rights under exceptions and motions heretofore filed, and for answer to the allegations contained in complainant's bill, denies each and every allegation therein contained, except those specifically admitted, and further answering avers:

1

The allegations of this paragraph are admitted.

2

The allegations of this paragraph are admitted.

3

Respondent admits that complainant is engaged in the business of producing, buying, transporting and selling natural gas, and that it owns and maintains systems of pipelines in the State of Louisiana, including a Twenty Inch (20") interstate line extending from Sterlington, Ouachita Parish, Louisiana, westward through the State of [fol. 40] Louisiana. Respondent is without knowledge or specific information as to the allegations pertaining to such business in Arkansas and Texas, and hence denies the remaining allegations of this paragraph. Further, respondent shows that complainant is engaged in Louisiana in both inter and intra-state business, selling from said Twenty Inch (20") main, described herein, gas in Louisiana. Respondent further shows that complainant owns and operates, in its intra-state business in Louisiana a field gathering system consisting of small feeder lines running out to the gas wells in the Richland and Ouachita Gas fields, and that it is through the aid of these small feeder lines, which make up a network of lines in said gas fields, that the gas is gathered from the fields where it is produced and brought to a central point for delivery into the Twenty

Inch (20″) main pipeline at Sterlington, Ouachita Parish, Louisiana; that this system of feeder lines, or as commonly called, the field gathering system, is necessary to gather up the gas from the premises and from the fields where it is produced, in order that it may be placed in either inter or intra-state commerce; that it is necessary to have these feeder lines, or this field gathering system in order to gather the gas from the properties where it is produced, or severed from the soil, and to bring it out to a central point where it can be utilized; that this is essential whether the gas is to be used within the State of Louisiana or is to be later transported in interstate commerce. Respondent further shows that the gas transported out of the State of Louisiana by complainant does not enter interstate commerce until it is actually and physically within the Twenty Inch (20″) main, one terminus of which is at Sterlington, Ouachita Parish, Louisiana.

[fol. 41] 4

Respondent admits that from August 1, 1932, until July 31, 1933, the natural gas transported through the pipelines described, that is, through the Twenty Inch (20″) main, one terminus of which is at Sterlington, Louisiana, was in part produced by complainant from leases owned and operated by it in the Monroe and Richland fields in Louisiana, and in part purchased from other producers of gas in those fields. Respondent further shows that transportation of gas through said Twenty Inch (20″) main took place only after the gas was collected from the properties where produced through the system of small feeder or gathering lines, and delivered into the Twenty Inch (20″) main at Sterlington. For want of sufficient information on which to base a belief, respondent denies that all severance taxes due the State of Louisiana by complainant and others than complainant, as alleged in this paragraph, have been paid on the said natural gas.

5

Respondent admits that gas, after being delivered physically within the Twenty Inch (20″) pipeline, one terminus of which is at Sterlington, Louisiana, that is destined for points outside of the State of Louisiana, is in interstate commerce. For lack of sufficient information on which to

base a belief respondent denies the other allegations contained in paragraph Five of complainant's bill.

6

Respondent admits that complainant owns and operates a mechanical unit or units at the Munce Station at Sterlington, Ouachita Parish, Louisiana, known as a compressor or compressors; respondent further admits that these mechanical units known as compressors are necessary in the production of gas in the Richland and Ouachita Parish fields, and that it is necessary to have these compressors in order to load the gas into the Twenty Inch [fol. 42] (20″) interstate main, one terminus of which is at Sterlington, Louisiana; respondent further admits that the wells furnishing gas to complainant in the Richland and Ouachita fields cannot produce at their natural flow, therefore, the compressor is necessary in order to draw the gas from the wells, where the wells have low rock pressure, and is also necessary to load the gas into the Twenty Inch (20″) interstate main, through the meter which measures said gas at the point of intake into said Twenty Inch (20″) interstate main; respondent further shows that the work done by said compressors in enabling the gas wells involved to produce, and the use of said compressors in loading the gas into the Twenty Inch (20″) interstate main, is strictly intra-state business and is not interstate business. Respondent further shows that at the Munce Station, referred to herein, there are located devices which are used to extract from the gas, that has been gathered by the field gathering system, water and other foreign substances which changes the product from unmerchantable gas to merchantable gas. The respondent denies all other allegations contained in paragraph Six of complainant's bill.

7

Respondent admits that the station owned by complainant at Sterlington, Louisiana, is commonly referred to as the "Munce Compressor Station," and consists mechanically of a number of mechanical units some of which are commonly known as compressors. Respondent further admits that it requires mechanical energy to operate the mechanical units known as compressors; respondent shows that said mechanical energy may be obtained by the use of

internal combustion gas engine units, such as used by complainant in the case at bar, by the use of electric motors, or by the use of steam engines; that complainant has elected to manufacture and generate mechanical power at the Munce Station by the use of ten (10) four cylinder Cooper [fol. 42½] Bessemer Internal Combustion engines, in all of which natural gas is used as fuel; respondent further shows that the mechanical energy or power generated and manufactured by said ten (10) four cylinder Cooper Bessemer Internal Combustion engines is transmitted to the mechanical units commonly called compressors; respondent further shows that said mechanical units known as compressors can be operated, and are commonly operated by electricity or other forms of power, or energy; respondent further shows that the mechanical units known as compressors are bolted down to concrete, and are stationary at the Munce Station, and have their situs there at all times. Respondent further shows that the ten (10) four cylinder Cooper Bessemer Internal Combustion engines which are used by complainant herein, are commonly known as "Prime Movers" and are bolted down to cement and are permanently situated at the Munce Station; respondent further shows that there are two mechanical units situated at the Munce Station, one the compressor, and the other, the internal combustion engine, or Prime Mover, which Prime Mover is used exclusively in the manufacture of power which is transmitted to the compressor and which power, after it is manufactured and created by the Prime Mover, operates the compressor. Respondent further shows that the manufacture or generation of the power by the Prime Movers, referred to herein, is strictly intra-state business and business done within the State of Louisiana. Respondent admits that in addition to the equipment aforementioned, there is situated at the Munce Station, on land owned by petitioner, two (2) electric generators propelled by gas burning Internal Combustion engines which are used to manufacture electrical energy for lighting the buildings at the compressor station and operating the machine shop and air compressor. All other allegations contained in paragraph Seven are denied.

[fol. 43] 8

Respondent especially denies that four engines and one generator are made necessary for the purpose of being

used as "stand-by." Further answering, respondent avers that the report of complainant made to the office of the Supervisor of Public Accounts shows that all of the equipment at said plant was used in the conduct of its business, and that none of the equipment was used or claimed to be used as "stand-by." Further answering, respondent shows that if the engines employed in the operation of said plant "seldom function at their maximum capacity," as alleged this is the fault of complainant for not keeping the said engines in proper repair.

9

Respondent admits that from August 1, 1932 to July 1, 1933 that all gas delivered into complainant's Twenty Inch (20") line, herein described, at Sterlington, was delivered into said line by the compressors at the Munce Station. Respondent further shows, for lack of specific information, all of the remaining allegations in this paragraph are denied.

10

Respondent is without knowledge or specific information as to the allegations contained in paragraph Ten and, therefore, denies the same. Respondent further shows that the allegations contained in paragraph Ten are irrelevant and immaterial and have no bearing on the issues involved in the case at bar.

11

Respondent admits that complainant, prior to August 31, 1933, made a return to the Supervisor of Public Accounts under Act No. 6 of 1932, but respondent denies that said return fully complied with the provisions of said Act No. 6 of 1932.

12

Respondent admits that complainant paid the sum of Three Thousand, one Hundred and Eighty-four Dollars [fol. 44] ($3,184.00) under the provisions of Act No. 6 of 1932, but respondent specially denies that the amount paid was the entire amount due for the fiscal year ending July 31, 1933, and respondent denies that the calculation as made is correct or that it is in compliance with the law, and further denies that said payment was made "to avoid a forced sale," as alleged, since the amount paid was not

the entire amount due the State under the provisions of Act 6 of 1932. Further answering respondent shows that said payment was made under the provisions of Act No. 6 of 1932, which complainant now contends is invalid. All other allegations of this paragraph are denied.

13

Respondent admits that on July 25, 1934, Alice Lee Grosjean, Supervisor of Public Accounts, demanded of petitioner, as due under the provisions of Act No. 6 of 1932, the payment of the additional principal sum of Seven Thousand Three Hundred Sixteen Dollars ($7,316.00) due as the balance of the excise, license or privilege tax levied by Act No. 6 of 1932, for the privilege of generating and manufacturing power by the use of Prime Movers consisting of Internal Combustion engines operated at the Munce Compressor Station for the year ending July 31, 1933, together with the penalty thereon of Twenty-five Per cent (25%), One Thousand Eight Hundred Twenty-nine Dollars ($1,829.00), or a total of Nine Thousand One Hundred Forty-five Dollars ($9,145.00) with Ten Percent (10%) upon the principal and penalty as attorney's fees, and caused to be recorded in the mortgage records of Ouachita Parish, on July 24, 1934, her sworn statement setting forth the details of her demand, which, under the provisions of Act No. 6 of 1932, operates as a mortgage and lien upon all property of petitioner in that Parish. Respondent denies that the demand made by the Supervisor of Public Accounts was unlawful, and denies all other allegations contained in paragraph Thirteen of complainant's bill.

[fol. 45] 14

Respondent admits that the amounts so determined by the Supervisor of Public Accounts were calculated according to the total manufacturer's rated horsepower of Prime Movers or engines owned by complainant at the Munce Compressor Station during such period, and used by complainant in the generation or manufacture of power which was transmitted and used after its manufacture and generation to operate the compressors referred to in this answer. Respondent further shows that the measure or rate of tax levied by said Act No. 6 of 1932, Section 3, was at the rate of One Dollar ($1.00) per horsepower capacity.

15

Respondent admits that on September 8, 1934, Milton Coverdale, Sheriff and Ex-Officio Tax Collector of Ouachita Parish, acted pursuant to the provisions of Act No. 6 of 1932, and seized the property of petitioner located in the Parish of Ouachita and advertised same for sale on October 20, 1934, to pay and satisfy the demands made by the Supervisor of Public Accounts hereinabove referred to. Respondent denies all other allegations in paragraph Fifteen of complainant's bill, especially the allegations that the property herein was illegally seized, and that the demands of the Supervisor of Public Accounts upon the complainant herein for the tax involved were unlawful.

16

Respondent denies the allegations contained in paragraph Sixteen, with exception of those specifically admitted. Further, respondent denies that the tax claimed by the Supervisor of Public Accounts of Louisiana from complainant under the provisions of Act No. 6 of the Louisiana Legislature of 1932 are unlawful and illegal, and shows that same are lawful and legal, and in no way violates the Constitution of the United States or the Constitution of the State of Louisiana.

[fol. 46] (a) Respondent denies that said statute contravenes Article 1, Sections 8 and 10 of the Constitution of the United States reserving to the Congress of the United States the sole power to regulate commerce between the several States; respondent further denies that the Prime Movers owned and used by complainant at the Munce Station are instrumentalities of interstate commerce, and denies that said Prime Movers are employed by petitioner in interstate commerce, and further denies that without said Prime Movers the complainant could not engage in interstate business described in complainant's bill and, further, respondent denies that the excise, license or privilege tax levied by Section 3 of Act No. 6 of the Louisiana Legislature of 1932 is a direct burden upon such interstate commerce, as alleged by complainant. On the contrary, respondent shows that the Prime Movers owned and used by complainant at the Munce Station consist mechanically of ten (10) four cylinder Cooper Bessemer In-

ternal Combustion engines, which are bolted down to concrete and remain at all times in a permanent place or situs at the plant, within the State of Louisiana. Further, respondent shows that said Prime Movers are used by complainant for the exclusive purpose of manufacturing or generating mechanical power which is, after its manufacture and generation, transmitted through the medium of rods to the compressors, in the same manner as electrical energy is transmitted over wires, and this said power, after it is manufactured, generated, and produced, just as any other manufactured article, is transmitted to the point of use, and is used by complainant to operate the compressors which gather the gas involved from the wells through the system of feeder lines, and which compressors enable the wells to produce, and after enabling the wells to produce and drawing the gas therefrom, compresses it into said articles for transportation, and forces said gas through a meter at the point of intake into the Twenty Inch (20") [fol. 47] interstate main; respondent further shows that the generation and manufacture of said power is separate and distinct from its use; that the manufacture and use are not simultaneous acts; that the Prime Movers generate and manufacture mechanical power which is later used to operate said compressors, which power when so manufactured and generated is comparable to the manufacture of physical articles of trade, and the transmission and use of said power is comparable to subsequent shipment, transporting and use of other physical articles of trade. Respondent further shows that, when said power is manufactured or generated by said Prime Movers, there is created a distinct product, namely, mechanical power. Respondent further shows that the generation and manufacture of said mechanical power by said Prime Movers is essentially local in character and complete in itself.

(b) Respondent shows that the allegations contained in sub-paragraph "b" of paragraph Sixteen has, since the suit at bar was filed, been passed on and determined by the Supreme Court of the State of Louisiana in the case of State v. H. L. Hunt, 182 La., 1037, 162 So., 777, wherein the Court held that the excise, license or privilege tax levied by Section 3 of Act No. 6 of the Louisiana Legislature for 1932, for the privilege of generating or manufacturing power was not in conflict with Article 10, Section 21 of the Constitution of

Louisiana for 1921; further, respondent denies that the Prime Movers, described herein, are essential and necessary instrumentalities of interstate commerce conducted by complainant. Respondent denies that the Legislature of Louisiana was without authority to place said license or privilege tax upon the privilege of generating or manufacturing mechanical power, the ultimate use of which power was to be used in the production of gas. Respondent denies the remaining allegations in sub-paragraph "b" in paragraph Sixteen of complainant's bill.

[fol. 48] (c) Respondent denies that the tax is imposed directly upon the machinery and equipment owned by complainant, as alleged in sub-paragraph "c" of paragraph 16, and denies that said tax is a property tax. Respondent further denies that the tax levied by said Act constitutes double taxation and denies that said tax is contrary to the provisions of Article 10, Sections 1 and 3 of the Constitution of 1921, and denies that Section 3 of Act No. 6 of 1932 is violative of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States. Respondent shows that, in the case of State v. Hunt, 182 La., 1073, 162 So. 777, the Supreme Court of Louisiana, passed on the questions raised by the allegations contained in sub-paragraph "c" of paragraph 16 of complainant's bill, and held that the tax levied by Section 3 of Act No. 6 of 1932, involved herein, was not a property tax, but an excise, license or privilege tax, levied for the privilege of generating power in the State of Louisiana, and that said Section of said Act did not violate Sections 1 and 3 of Article 10 of the Constitution of Louisiana for the year 1921, and did not violate the equal protection clause of the Fourteenth Amendment to the Constitution of the United States. Respondent denies the remaining allegations contained in sub-paragraph "c" of paragraph 16 of complainant's bill.

(d) Respondent denies the allegations in sub-paragraph "b" of paragraph 16 of complainant's bill, and shows that the tax levied by said Act is classified, graduated and progressive, as required by Article 10, Section 8 of the Constitution of Louisiana for the year 1921; that the Supreme Court of the State of Louisiana, in the case of State v. Hunt, 182 La., 1073, 162 So., 777, held that said tax was classified, graduated and progressive, as required by Article 10, Sec-

tion 8 of the Constitution of 1921, and did not violate said provisions.

[fol. 49] Further answering, respondent avers that Article 10, Section 8 of the Constitution of 1921 does not make it mandatory upon the Legislature of Louisiana to make any tax classified, graudated or progressive, that said provisions in the Constitution are merely permissive, and your respondent further avers that said tax is classified.

(e) Respondent denies that Act No. 6 of 1932 denies the complainant the equal protection of the laws guaranteed by the Fourteenth Amendment to the Federal Constitution, as alleged in sub-paragraph "e" of paragraph 16 of complainant's bill; further, respondent shows that the Supreme Court of the State of Louisiana, in the case of State v. Hunt, 182 La., 1072, 162 So., 777, held that Section 3 of Act No. 6 of 1932, involved herein, did not violate the equal protection clause of the Fourteenth Amendment to the Federal Constitution.

Respondent further avers that if there is any difference in rates required to be paid under said Act by one who purchases this power and one who developes and manufactures or uses its own power, that the complainant has the same right as any other person to purchase its power; that the complainant is in the same class with other persons similarly situated.

(f) Respondent denies the allegations of sub-paragraph "f" of paragraph 16 of complainant's bill, and denies that there is an arbitrary discrimination against complainant, and others similarly situated, in favor of persons and corporations purchasing power in the form of electrical energy in the conduct of similar business enterprises. Respondent further shows that the Supreme Court of Louisiana, in the case of State v. Hunt, 182 La., 1073, 162 So., 777, held that, under the Constitutional laws of the State of Louisiana, Section 3 of Act No. 6 of 1932, involved herein, does not arbitrarily discriminate against complainant, and others similarly situated, in favor of persons and corporations purchasing power in the form of electrical energy in the conduct of similar business enterprises. Respondent further denies that any tax has been levied against complainant for [fol. 49½] "stand-by" or emergency facilities, and avers that the tax claimed is based upon the manufacturer's rating

of complainant's equipment as furnished by complainant in making its return. Respondent denies all other allegations contained in sub-paragraph "f" of paragraph 16 of complainant's bill.

17

Respondent denies the allegations contained in paragraph Seventeen of complainant's bill, and denies that respondent employed any scheme to fix the amount of taxes demanded, and denies that respondent arbitrarily assumed the capacity of the machinery owned by complainant. Respondent further denies that complainant is denied the equal protection of the laws guaranteed by the Fourteenth Amendment to the Federal Constitution, and again avers that the amount of tax claimed is based upon the capacity of the equipment and machinery as shown by the return made by complainant and in conformity with the law. Respondent avers that if there is any diminution in the capacity of complainant's machinery and equipment that this is the fault of complainant in not keeping the machinery and equipment in proper condition of repair. The remaining allegations contained in paragraph Seventeen are denied.

18

Respondent denies the allegations of paragraph Eighteen and avers that all tax debtors, including complainant, are subject to all of the penalties imposed by the General License Law of the State, including attorney's fees, as provided by Section 8 of Act No. 6 of 1932.

19

The allegations of paragraph Nineteen are denied in full.

[fol. 50]

20

Respondent admits that he, as Sheriff and Tax Collector of the Parish of Ouachita, did carry out his duty as provided in the law, and under the instructions of the Supervisor of Public Accounts. The remaining allegations of paragraph Twenty are denied.

21

Respondent admits the allegations of paragraph Twenty-one, but shows that, since the institution of the suit at bar,

complainant has dismissed the suit referred to in paragraph Twenty-one of its bill.

22

Respondent admits the allegations contained in paragraph Twenty-two of complainant's bill, and further answering shows that said suit has been dismissed by complainant since the institution of the suit at bar.

23

Respondent denies the allegations of paragraph Twenty-three, but admits that he will perform his duty under the provisions of Act No. 6 of 1932, and under the instructions of the Supervisor of Public Accounts, who is charged with the duty of enforcing said Statute.

24

The allegations contained in paragraph Twenty-four of complainant's bill are denied.

25

Respondent is without information as to the value of complainant's property, and denies that complainant will suffer irreparable injury. The remaining allegations of paragraph Twenty-five are denied.

26

In the alternative, and in the alternative only, respondent shows that if the court should hold that the tax involved herein is a burden on interstate commerce, which is denied by respondent, and in that event only, respondent shows that said tax is an indirect burden on interstate commerce, [fol. 51] and is, therefore, not violative of the commerce clause of the Federal Constitution.

27

Respondent further shows that the taxes involved in the litigation at bar are for the years ending July 31, 1933, July 31, 1934, July 31, 1935, and July 31, 1936; that for the year ending July 31, 1933, there remains due and unpaid the State of Louisiana, respondent herein, the full sum, under the Statute involved herein, of Ten Thousand Seven Hundred and Seventeen Dollars and Forty Cents ($10,717.40) together with penalties thereon provided by the Statute, and in addition, 10% upon said tax and pen-

alties, as attorney's fees; for the year ending July 31, 1934, complainant herein owes the respondent, the State of Louisiana, under the Statute involved herein, the full sum of Nine Thousand Two Hundred and Seventy-Five Dollars ($9,275.00), together with penalties as provided by said Statute, and in addition thereto, 10% on said tax and penalties as attorney's fees; for the year ending July 31, 1935, complainant herein owes and is indebted unto respondent, the State of Louisiana, under the Statute involved herein, in the full sum of Seven Thousand Three Hundred Dollars ($7,300.00), together with interest and penalties at the rate of 2% per month from September, 1935, to date, in the full sum of Two Thousand Three Hundred Thirty Six Dollars ($2,336.00), together with 10% upon said principal and interest and penalties as attorney's fees; for the year ending July 31, 1936, complainant herein is indebted unto the respondent, under the Statute involved, in the full sum of Eight Thousand Two Hundred and Sixty Dollars, ($8,260.00), together with interest at the rate of 2% per month from September, 1936, to date, which said interest amounts to date to the full sum of Six Hundred Sixty Dollars and Eighty Cents ($660.80), together with 10% upon said tax and penalties and interest as attorney's fees.

[fol. 52] 28

For the reasons set forth in this answer, respondent shows that the bill of complaint filed herein by complainant should be dismissed at complainant's cost.

Wherefore, respondent prays that the interlocutory injunction issued herein be recalled and set aside, and that the bill of complaint filed herein by complainant be dismissed at complainant's cost.

Respondent further prays for all necessary orders and decrees, and for general and equitable relief.

Gaston L. Porterie, Attorney General of Louisiana. Justin C. Daspit, Special Assistant Attorney General. F. A. Blanche, Special Assistant Attorney General. E. L. Richardson, Special Assistant Attorney General.

[fol. 53] *Duly sworn to by Milton Coverdale. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 54] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF T. W. JOHNSON—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared T. W. Johnson, who, being first duly sworn, deposes and says that he is presently employed as an engineer by the United Gas Public Service Company at Shreveport, Louisiana; that he has been engaged constantly in engineering work, having to do with the transportation of natural gas by pipe lines, since his graduation from Montana State College in 1924, in which institution he studied mechanical engineering; that after his graduation from Montana State College he was employed for a period of two years by the Empire Oil & Refining Company as a junior engineer in natural gas and petroleum work, after which he was for ten years prior to his employment by United Gas Public Service Company employed constantly by the United States Bureau of Mines, Petroleum Division, with headquarters at Bartlesville, Oklahoma, performing work, the greater part of which was connected with the natural gas industry; that in the course of his experience outlined he has become thoroughly familiar with the principles involved in the transportation of natural gas by pipe line and is thoroughly familiar with the character of equipment and machinery employed at the Munce Compressor Station of Arkansas Louisiana Pipeline Company as described in the affidavit of A. B. Singletary, Jr. and disclosed upon the exhibits made part of his affidavit filed herein, and with the methods employed in the transportation of natural gas through pipe line by such equipment.

[fol. 55] Deponent further says:

That compressor units, such as those described as being employed at the Munce Compressor Station of Arkansas Louisiana Pipeline Company, are universally employed in the transportation of natural gas by pipe line over any considerable distances and are so universally employed for practical and economic reasons which preclude the construction of lines of such enormous size as might theoretically transport gas in commercial quantities without the means of artificial boosting or pressure; that the compressors described and employed at the Munce Compressor Station

from an integral part of the pipe line through which natural gas is transported, and the engines used in connection with such compressors are used solely and only to facilitate the movement of natural gas through the pipe lines.

Because of the physical design, assembly and type of equipment employed, the energy created by the operation of the engines in use is not susceptible of transmission over any considerable distances and can be used only for the purposes intended or the transmission of the natural gas transported, through the lines of which the compressors form an integral part and the energy created for these reasons cannot be considered to have any commercial value independently of the operation described.

The flow of natural gas through a pipe line is affected and determined by several factors, the principal of which are:

The length and size of the line; the quantity of gas to be transported and the difference between pressures at the inlet and outlet points;

the difference in pressure between any two points along the line of transportation causing a flow of gas between such points and through the line.

[fol. 56] Although, as already suggested, theoretically a line might be constructed of such size as to bring about the transportation of gas without the use of artificial power, for practical reasons this cannot be done in the commercial marketing of gas over considerable distances in which character of transportation artificial power and compressors are universally employed, and when so used, are used solely for the purpose of affording a means of transporting required volumes of gas through the pipe lines in use, and without which such transportation would be from all practical considerations impossible.

In the operation of compressor units such as those described, no power is generated in the compressor unit except that required to overcome frictional resistance in the unit itself until gas is admitted to the compressor cylinder. Therefore, it is apparent that power is involved only when consumed by the operation of the unit in the compression of gas which creates a movement of that product in the pipe line, as a result of which the transportation of the natural gas is accomplished.

Deponent further says:

That from the descriptions of the source of the supply of gas compressed at the Munce Compressor Station and the pressures of wells involved, it is apparent that the action of the compressors located at the Station do not operate to affect or increase the open flow capacity of any well from which production is obtained or the ability of any such well to produce gas against atmospheric pressures, the function of the compressors, in so far as the gathering lines are concerned, being merely to remove the gas from the gathering lines at the location of the compressors and by such removal to permit the flow of additional gas into such lines from the well pressures.

T. W. Johnson.

[fol. 57] Sworn to and subscribed before me, notary, on this 18th day of December, 1936. Leon O'Quin, Notary Public in and for Caddo Parish, Louisiana.

[File endorsement omitted.]

[fol. 58] In United States District Court

[Title omitted]

Affidavit of H. T. Goss—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared H. T. Goss, who, being by me duly sworn, deposes and says that he has been employed as an engineer by the Arkansas Louisiana Pipeline Company at its office in Shreveport, Louisiana, for more than six years and has been chief engineer of that corporation for a period exceeding three years; that he has been familiar with the interstate gas line operated by Arkansas Louisiana Pipeline Company extending from Sterlington, Ouachita Parish, Louisiana, into the States of Arkansas and Texas since its construction and is thoroughly familiar with the equipment and operation of the line; that he has been familiar with the principles involved in the transmission of natural gas by pipe line for a period of more than fourteen years, during which time or after his graduation from Texas Agricultural and Mechanical College, where he studied mechanical engi-

neering; he has been constantly engaged in employments involving such transmission; that in connection with his work he has necessarily familiarized himself with the character and types of engines employed at what is referred to as the Munce Compressor Station of Arkansas Louisiana Pipeline Company located in the Parish of Ouachita.

Deponent further says:

Compressor units installed in the Munce Compressor Station of the Arkansas Louisiana Pipeline Company are known as 1000 HP Cooper, twin tandem, double acting, gas engine compressor units. Mechanically speaking, each is [fol. 59] an integral unit due to the physical design and assembly and as such could be used for no purpose other than that originally intended, namely, to assist in the movement of natural gas through pipe lines.

Briefly described, the energy created by the explosion of a mixture of natural gas and air under proper conditions in the engine cylinder is imparted directly by means of the piston rod to the compressor cylinder in which the natural gas is compressed. The energy so created has no commercial value in the sense that electricity has a commercial value. The energy created due to the physical design, assembly and type of equipment is not susceptible to transmission over considerable distances and can be used only for the purpose originally intended, namely, to assist in the movement of natural gas through the transmission lines, connected to the compressor cylinder.

In the process of compression, the chemical properties of the natural gas itself remain unchanged.

The flow of natural gas through a pipe line is a function involving various factors, the most important of which are:

(1) The inlet pressure.
(2) The outlet pressure.
(3) The length of the line.
(4) The size (diameter) of the pipe.
(5) The quantity of gas to be transported.

From the above it is apparent that for any given condition as to length and size of line, the flow of a given quantity of gas through a pipe line depends on the difference in pressure of the gas between the inlet and outlet points. In other words, difference in pressure between any two points

along a pipe line causes a flow of gas between the two points and through the pipe line.

It is also apparent from the above, that theoretically, a line could be constructed for the transportation of gas without the means of artificially boosting the pressures, [fol. 60] so long as any pressure exists at the inlet. However, in some cases, practical and economic limits preclude such enormous sizes of pipe lines that in practical design and construction, smaller size lines are selected and compressor stations are installed to increase the pressure of the gas to such an extent as to cause the flow of the required amount of gas through the pipe size selected. In other words, the installation and operation of a compressor station, such as that referred to as the Munce Compressor Station, is for the sole purpose of affording means of transporting required volumes of gas through the pipe lines and without such equipment, such transportation would be impossible.

The power required for such compression can be determined by generally accepted formulae. Under the theory involved in such determination it is apparent that no power is generated in the compressor unit except that required to overcome frictional resistance in the compressor unit itself, until or unless gas is admitted to the compressor cylinder and compressed. Therefore, the power is consumed in the actual movement of the gas in the compressor cylinder, causing a corresponding movement in the pipe line, with the result that the power is generated and used solely in accomplishing the movement of gas in the pipe lines, which movement to the required degree would be impossible without such power.

The place of location of a compressor station along a pipe line is determined by pressure conditions, and in the case of the Munce Compressor Station has been fixed near the source of supply or wells producing the natural gas to offset the decline in initial well pressures. The gas is brought to the inlet of the compressor through so-called field gathering lines and flows into the compressor cylinder under the pressure of those lines, the flow being permitted by the action of the compressor which causes a pressure differential [fol. 61] to exist permitting the flow of gas from the gathering lines into the compressor. The gas is then compressed in the compressor cylinder and discharged into the trans-

mission line. The action of the compressor does not operate to increase the open flow capacity of any well from which production is obtained or the ability of any such well to produce gas against atmospheric pressures, its function, in so far as the gathering lines are concerned, being merely to remove the gas from the gathering lines at the location of the compressor and by such removal to permit the flow of additional gas into such lines from the well pressure.

H. T. Goss.

Sworn to and subscribed before me, notary, on this 18 day of December, 1936. Leon O'Quin, Notary Public in and for Caddo Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 62] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF H. T. GOSS—Filed December 17, 1935

Before me, the undersigned authority, personally came and appeared H. T. Goss, who, being by me duly sworn, deposes and says that he has been employed by the Arkansas-Louisiana Pipeline Company at its office in Shreveport, Louisiana, for approximately six years and is now chief engineer of that corporation, a position which he has occupied for three years; that he has been familiar with the interstate gas line operated by Arkansas-Louisiana Pipeline Company extending from Sterlington, Ouachita Parish, Louisiana into the States of Arkansas and Texas as described in the petition in the above suit since its construction; that he has been familiar with the principles involved in the transmission of natural gas for a period of more than twelve years, during which time he has been constantly engaged in employments involving such transmission; that in connection with his work he has been necessarily familiar with the character and types of engines employed at what is referred to as the Munce Compressor Station; that this Compressor Station and the engines employed there are necessary and essential to the distribution of gas in the interstate line for the following reasons:

"The frictional resistance in pipe lines is such that the power involved in raising the pressure of the gas from the field pressure is essential to the movement of the required volumes of natural gas and that degree of power from the Compressor Station in question must be used in the operation of the interstate line, which added to the field pressure of gas entering the Compressor Station would be required to place into the line a sufficient volume of gas to permit constant deliveries at distant points on the line.

[fol. 63] In referring to the necessary volumes indicated is meant a certain volume of gas within a specified period of time, in that were time, not an element of transmission, pressures would tend to be equalized. However, considering the fact that withdrawals must be made to meet consumer requirements, the above condition of pressure equilization is impossible, creating the necessity for equipment to provide adequate pressures to cause a flow of gas through the line."

H. T. Goss.

Sworn to and subscribed before me, notary, on this 10th day of December, 1935. Leon O'Quin, Notary Public in and for Caddo Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 64] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF PAUL WEEKS—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport, in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared Paul Weeks, who, being by me duly sworn, deposes and says:

That he is and has for some years been a resident of Shreveport, Louisiana; since 1930, he has been employed by Arkansas-Louisiana Pipeline Company, in charge of well drilling and production in the gas division of that Company.

During the year ending July 31st, 1933, complainant owned and operated in the Richland gas field approximately eleven gas wells, the production from which was delivered to the Munce Compressor Station at Sterlington. Such gas was taken from the wells into the Company's field gathering system and transported from the Richland field under the well pressure to Munce Station, approximately twenty-five miles northwest, and was there put into the 20-inch line by the compressors. During the period mentioned, well pressures in the Richland field were decreasing steadily, and in the spring of 1933 the highest pressure in any well owned and operated by complainant was approximately 250 pounds; during the same period, pressures in the 20-inch line were maintained at 275 pounds or more; therefore, the [fol. 65] Richland wells mentioned could not have delivered gas into the pipeline under well pressures.

Complainant, during the year ending July 31st, 1933, owned and operated five wells in the Monroe gas field, which delivered gas into the 20-inch gas pipeline herein mentioned; well pressures generally in the Monroe gas field, during that period, ranged approximately from 200 pounds to 800 pounds. No well with a pressure less than that maintained in the 20-inch pipeline would have delivered gas without the use of compression into said line in any amount; and wells with pressure greater than that maintained in the 20-inch pipeline would have delivered gas into said line, but the rate of flow into the line would have been diminished. The use of power in the form of compression at Munce Station was necessary during that time in order to deliver into the 20-inch pipeline gas in quantities sufficient to meet the requirements of complainant's business, considering the pressure at which said gas was received from sellers at the intake side of Munce Compressor Station.

Deponent further says that the statements made in this affidavit are statements of fact within his knowledge.

Paul Weeks.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana.

[File endorsement omitted.]

[fol. 66] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF W. E. NESTOR—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport, in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared W. E. Nestor, who, being by me duly sworn, deposes and says:

That he is and has since 1920 been a resident of Shreveport, Louisiana. Since 1909, deponent has been in the natural gas business in the construction or operation of natural gas compressors. Since 1920, deponent has been Superintendent of Compressor Stations of Arkansas-Louisiana Pipeline Company, complainant in this cause, or of the corporations to which it is successor, in direct charge of all its compressor stations, including Munce Station, at Sterlington, Ouachita Parish, Louisiana.

Munce Station at Sterlington consists of ten 1,000 horsepower Cooper Bessemer gas burning engines, directly connected to ten gas compressors, and two 250 horsepower gas burning engines directly connected to electric generators; all housed in one main building and an auxiliary building in which is also a machine shop. The station can not be operated without the use of auxiliary power to furnish station lighting, water for cooling the engines and pumps, com-[fol. 67] pressed air for starting the engines, and power for the machine shop; the most convenient method of furnishing such auxiliary power is in the form of electric energy, and at the present time all gas compressor stations use electric energy for incidental power required for the purposes mentioned.

In the Monroe gas field there are some six or more gas compressor stations, in addition to Munce Compressor Station; none of which is quite as large as Munce Compressor Station, but several of which, including that owned and operated by Mississippi Fuel Gas Company, are comparable in size to Munce Station; all of the compressor stations in the Monroe field, except Munce Station, use purchased electricity to furnish power for incidental purposes around the station; but all of said stations maintain standby generator

and engine for use in the case of failure of purchased power. In deponent's opinion the failure of the electric power at a compressor station would necessitate the shutting down of the station until such power could again be obtained. One of the engines and generators is all that is required to furnish electric power for use at Munce Station; the other is maintained as standby equipment, although the two are used alternately to equalize wear and depreciation.

In connection with his duties as Superintendent of Compressor Stations, deponent keeps a record of the number of hours operated every day by all of the engines, compressors and generators at Munce Station; the two 250 horsepower gas engines at Munce Station used for generating electricity in the year ending July 31, 1933, each operated 4,380 hours; the ten 1,000 horsepower Cooper Bessemer gas burning engines at Munce Station, directly connected to the gas compressors, were operated during that period of time as follows, to-wit:

Engine number	Hours operated
4463	2,439
4493	2,679
4492	2,652
4494	2,487
4495	2,759
4497	2,641
4443	2,928
4444	2,995
4446	2,959
4445	2,551

[fol. 68] Deponent furnished the figures given above from his records to M. J. Lasseigne, who is in charge of Arkansas-Louisiana Pipeline Company's Tax Department, prior to August 31st, 1933, in order for him to prepare the Company's power tax return for the period ending July 31st, 1933.

Each of the engines used for pumping gas, mentioned above, is rated by the manufacturer thereof as being of 1,000 horsepower, and the two engines used for generating electricity are each rated by the manufacturer as being of 250 horsepower, which facts were also reported by deponent to said Lasseigne. Deponent has examined the return dated August 31st, 1933, filed for the period ending July 31st, 1933, for Arkansas-Louisiana Pipeline Company in respect

of the prime mover tax imposed by Act No. 6 of 1932, and finds that it contains a complete list of each and every piece of machinery or apparatus operated by complainant company during the year ending July 31st, 1933, for the purpose of producing power for use in the conduct of said Company's business, together with the manufacturer's rated horsepower capacity of each of such machines. In addition, deponent finds that the operated horsepower shown upon said return is the product of the manufacturer's rated horsepower capacity and the fraction obtained by dividing total number of hours such machine was operated by the total number of hours in the year. In addition, said return shows as to all of such machines the percentage of manufacturer's rated horsepower capacity attained by each of such machines at the time same were operated to the greatest extent, that is, in the case of the ten 1,000 horsepower engines, 95%.

From deponent's experience in the operation of gas compressor stations, it is, in his opinion, necessary to maintain some equipment in addition to that normally needed. This is a general practice in all compressor stations. Such additional equipment is absolutely necessary in order to have equipment for use during time repairs are being made, to meet unusual demands, and in the case of breakdown of part of the equipment used.

During the summer months normally three engines of the ten at Munce Station are all that are used at one time; dur- [fol. 69] ing the winter months five engines furnish the necessary power, and occasionally six engines are used to meet unusual demands. On one occasion it became necessary to operate seven of the engines at one time. This was brought about by an unusual condition of low pressure in the field gathering system connected to the intake side of the pumps. However, the various engines are used alternately to equalize wear and depreciation.

Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

W. E. Nestor.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana.

[File endorsement omitted.]

[fol. 70] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF M. J. LASSEIGNE—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared M. J. Lasseigne, who, being by me duly sworn, deposes and says:

That he is now and has been for the last twelve years a resident of the City of Shreveport, Caddo Parish, Louisiana, in which City is located the general office of Arkansas-Louisiana Pipeline Company, complainant in the above entitled and numbered cause. That he is employed by complainant in this cause, is in charge of its Tax and Insurance Department, and has been so employed since 1931.

That his duties, as to taxes, consist in preparing proper renditions and returns and making payment of all taxes due by that Company of every nature and kind to Federal, State and local governments. In accordance with his duties under his said employment in the month of August, 1933, he prepared a return as required by Act No. 6 of the Legislature of Louisiana for the year 1932, levying a tax upon all persons generating power for their own use. That, in accordance with the requirements of the statute, the return was signed and sworn to by B. R. Muirhead, Treasurer of [fol. 71] Arkansas-Louisiana Pipeline Company, who is deponent's immediate superior, but it was entirely prepared by deponent.

The said return was dated August 31st, 1933, and was by deponent filed with Miss Alice Lee Grosjean, Supervisor of Public Accounts of the State of Louisiana; payment was made to her at that time of the amount of tax shown to be due thereby. A carbon copy of the said return is attached to and made a part of this affidavit, marked "Exhibit 1".

The return contains in detail a complete list of each and every piece of machinery or apparatus operated by Arkansas-Louisiana Pipeline Company during the year ending July 31st, 1933, for the purpose of producing power for use in the conduct of the said Company's business, together with the manufacturer's rated horsepower capacity of each of such machines.

In addition to the information mentioned in the preceding paragraph, the said return shows also, as to each of such machines, the operated horsepower, that is, the product of the manufacturer's rated horsepower capacity and the fraction obtained by dividing total number of hours such machine was operated by the total number of hours in the year. In addition, said return shows, as to all of such machines, the percentage of manufacturer's rated horsepower capacity attained by each of such machines at the time same were operated to the greatest extent. All of the information as to such machines, shown on the return, was furnished to deponent by W. E. Nestor, complainant's Superintendent of Compressor Station. The tax assessed by Act No. 6 of 1932 was computed and paid, all as shown by the attached return, on the basis of the use made of the engines, that is, at $1.00 per horsepower on the sum obtained by taking the percentage of rated horsepower attained by the engines times the operated horsepower as hereinabove defined.

On or about July 27th, 1934, deponent received by registered mail from Alice Lee Grosjean, Supervisor of Public Accounts of Louisiana, a letter and duplicate original of an [fol. 72] affidavit executed by her (which are attached to and made part hereof marked, respectively, "Exhibit No. 2" and "Exhibit No. 3") claiming additional power tax, under the statute referred to, in respect of complainant's engines at its Munce Compressor Station at Sterlington, Ouachita Parish, Louisiana, and the affidavit purporting to impose a lien upon complainant's property. Except as to that letter and affidavit, no demand has ever been made upon complainant for additional tax under Act No. 6 of 1932, nor has any such additional tax liability ever been asserted by the Supervisor of Public Accounts of Louisiana or her agents.

Deponent further says that payment of severance taxes, due to the State of Louisiana on account of the production of natural gas by complainant, is made by him as part of his duties described in this affidavit. Payment of severance taxes, in accordance with the laws of the State of Louisiana, was made during all of the period of time ending on July 31st, 1933 to the Sheriffs and Ex-Officio Tax Collectors of Richland Parish and Ouachita Parish, Louisiana, and to the best of deponent's information and belief, such payments

were at the rate prescribed by law for all severance taxes levied by the State of Louisiana for all gas produced by complainant in said parishes during the period of time mentioned.

Deponent attaches to this affidavit as part hereof marked, respectively, "Exhibits Nos. 4, 5, 6 and 7", copies of the assessments of complainant in Ouachita Parish, Louisiana, for State and Parish taxes for 1932 and 1933, certified by Milton M. Coverdale, Sheriff and Ex-Officio Tax Collector, Ouachita Parish, Louisiana, defendant in this cause, and tax receipts showing payment of taxes under such assessments. The "Compressor Station" shown thereon is Munce Compressor Station; and the valuation assigned thereto is based largely upon the value assigned to the engines used to operate said station and in respect of which engines the Supervisor of Public Accounts is now claiming additional [fol. 73] tax under Act No. 6 of 1932.

Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

M. J. Lasseigne.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 74] EXHIBIT 1 TO AFFIDAVIT

Electric Power Tax

Annual Report of

Arkansas-Louisiana Pipe Line Co.,
(Name)
Box 1734, Shreveport, La.
(Address)

To the Supervisor of Public Accounts for the State of Louisiana, as required by Act 6 of 1932, showing the gross receipts derived from the sale of Electricity manufactured

in the State, and the gross receipts of the Electricity from the sale of Electricity purchased also the horsepower capacity of machinery taxed under Section 3 of the above mentioned Act.

For the fiscal year ending July 31, 1933.

Gross receipts from sale of Electricity manufactured or generated	$.....	
Gross receipts from the sale of Electricity purchased	$.....	
Value of Electricity supplied to a Branch or Branches not operating under permit or franchise from the State of Louisiana	$.....	
Total Receipts and Value from Electricity	$.....	$.....
Less:		
Amount received from the sale of Electricity to the State of Louisiana or subdivision thereof (See itemized list on reverse side.)	$.....	
Amount sold for resale (See itemized list on reverse side)	$.....	
Total deductions		$.....
Net taxable value at 2%		$.....
Total Tax Due on Sale of Electricity		$.....
Total horsepower capacity of machinery or apparatus taxed by Section 3 of the above-mentioned Act at $1.00 per horsepower, making tax due in the amount of		$4,172.60
Total Tax Due Under the Above Mentioned Act by the undersigned deponent		$4,172.60

Affidavit

STATE OF LOUISIANA,
Parish of Caddo:

Before me, the undersigned legal authority, personally came and appeared B. R. Muirhead, who being by me first duly sworn, deposes and says that the above and foregoing

statement is true and correct, and that, as representing the above named company, he is duly authorized to make this affidavit.

——— ———, Treas.
(Signature of Deponent)

Sworn to and subscribed before me this 31st day of August, 1933. ——— ———, Notary Public.

(Here follows 1 paster, side folio 75)

[fol. 75]

Arkansas Louisiana Pipeline Company

Location of Prime Mover	Manufacturer's Name	Serial or Shop No.	Size	Source or Energy	Manufacturer's Rating	Work of Prime Remover	Date of Purchase	Operated H.P.
Sterlington, Louisiana	Cooper-Bessemer Corp.	8040	14 3/4"x16" 4 Cyl'd	Natural Gas	250 H.P.	Gen. Elect.	1929	125
Sterlington, Louisiana	Cooper-Bessemer Corp	8041	14 3/4"x16" 4 Cyl'd	Natural Gas	250 H.P.	Gen. Elect.	1929	125
Sterlington, Louisiana	Cooper-Bessemer Corp.	4463	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	274.8
Sterlington, Louisiana	Cooper-Bessemer Corp.	4493	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	305.8
Sterlington, Louisiana	Cooper-Bessemer Corp.	4492	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	302.7
Sterlington, Louisiana	Cooper-Bessemer Corp.	4494	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	283.9
Sterlington, Louisiana	Cooper-Bessemer Corp.	4495	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	314.9
Sterlington, Louisiana	Cooper-Bessemer Corp.	4497	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	301.4
Sterlington, Louisiana	Cooper-Bessemer Corp.	4443	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	334.2
Sterlington, Louisiana	Cooper-Bessemer Corp.	4444	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	341.8
Sterlington, Louisiana	Cooper-Bessemer Corp.	4446	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	337.8
Sterlington, Louisiana	Cooper-Bessemer Corp.	4445	21 1/2"x36" 4 Cyl'd	Natural Gas	1000 H.P.	Comp. N. Gas	1929	291.2
Lewis, Louisiana	Snow Steam Pump Works	G-208	24"x48" 4 Cyl'd	Natural Gas	1300 H.P.	Comp. N. Gas	1911	313.8
Lewis, Louisiana	Snow Steam Pump Works	G-209	24"x48" 4 Cyl'd	Natural Gas	1300 H.P.	Comp. N. Gas	1911	284.6
Lewis, Louisiana	Snow Steam Pump Works	G-210	24"x48" 4 Cyl'd	Natural Gas	1300 H.P.	Comp. N. Gas	1911	391.7
Lewis, Louisiana	Bruce-Macbeth Gas Eng. Co.	669	10"x11" 4 Cyl'd	Natural Gas	100 H.P.	Gen. Elect.	1913	50
Lewis, Louisiana	Bruce-Macbeth Gas Eng. Co.	670	10"x11" 4 Cyl'd	Natural Gas	100 H.P.	Gen. Elect.	1913	50
Rodessa, Louisiana	Westinghouse Elec. & Manufacturing Co.	1393	9"x11" 3 Cyl'd	Natural Gas	60 H.P.	Gen. Elect.	1913	12.8
Rodessa, Louisiana	" "	1394	9"x11" 3 Cyl'd	Natural Gas	60 H.P.	Gen. Elect.	1913	12.8
Rodessa, Louisiana	Donovan	....	85 H.P.	Natural Gas	85 H.P.	Drive Pumps	1927	
Rodessa, Louisiana	Donovan	....	85 H.P.	Natural Gas	85 H.P.	Steam	1927	4454.20

Munce Station at Sterlington

When plant operated peak day engine developed only 95% of rated H.P. Therefore, taxable H.P. is 3088.5x95%=2934 plus 250 equals 3184 *1

Rogers Station at Lewis

When plant operated peak day engine developed only 70% of rated H.P. Therefore, taxable H.P. is 990.1x70%= 693 plus 25.6 " 718.6 *2

Serial No. 669 and 670 100

Grand Total 4002.6

Two Boilers 170

4172.6

*1 First two items.

*2 Last two items but two.

[fol. 75½] EXHIBIT 2 TO AFFIDAVIT

Baton Rouge, Louisiana,
July 26, 1934.

Arkansas-Louisiana Pipe Line Co., P. O. Box 1734, Shreveport, Louisiana.

In re Power Tax, Act 6 of 1932

GENTLEMEN:

On July 25, 1934, the Supervisor of Public Accounts caused to be filed and recorded in the mortgage records of Ouachita Parish, a sworn statement showing amount of power tax due by you for the fiscal year beginning August 1, 1932 and ending July 31, 1933, in the principal sum of $7,316.00 plus the penalty of 25% amounting to $1,829.00, making a total of $9,145.00, all as shown upon the duplicate of said sworn statement herewith enclosed, which statement now operates as a lien, privilege and mortgage against your property.

This is our demand for payment of the said power taxes together with penalty for delinquency and other penalties as set forth therein, pursuant to the provisions of Section 7 of Act 6 of 1932, requiring the giving of notice to the tax debtor by registered letter of the recordation of such statement. Please be advised that unless this demand is complied with within the fifteen days provided by law, the sheriff of Ouachita Parish will be instructed to seize and sell sufficient of your property within said parish to satisfy said taxes together with all penalties and costs.

Yours very truly, Supervisor of Public Accounts, by
Justin C. Daspit, Office Attorney.

Registered Mail.

cc. Arkansas-Louisiana Pipe Line Co., Sterlington, La.

[fol. 76] EXHIBIT 3 TO AFFIDAVIT

STATE OF LOUISIANA,
Parish of East Baton Rouge:

Before me, the undersigned authority, personally came and appeared Miss Alice Lee Grosjean, Supervisor of Pub-

lic Accounts for the State of Louisiana, who, being first duly sworn, deposed and said:

That, acting under authority of Act 6 of the Regular Session of the Louisiana Legislature for the year 1932, and particularly Section 6 of said Act, she declares under oath:

1st. That the Arkansas-Louisiana Pipe Line Company, a corporation organized under the laws of the State of Delaware and doing business in the State of Louisiana, with its principal office in the City of Shreveport, Parish of Louisiana, is and has been engaged in the business of operating a pipe line for the distribution and/or sale of natural gas in the State of Louisiana during the twelve month period beginning August 1, 1932 and ending July 31, 1933, at its plant located at Sterlington in the Parish of Ouachita, Louisiana. That at its said plant during the period aforesaid the said Arkansas-Louisiana Pipe Line Company generated electrical and/or mechanical power for use in the conduct of its said business or occupation and is, therefore, subject to the power tax levied by Act 6 of 1932, particularly under Section 3 of said Act, at the rate of $1.00 per annum for each horsepower of capacity of the machinery or apparatus known as the prime mover or prime movers.

2nd. That the power used by the said Arkansas-Louisiana Pipe Line Company in the conduct of its said business during the period aforesaid was not purchased, but was generated and produced by the said Arkansas-Louisiana Pipe Line Company at its said plant located at Sterlington in the Parish of Ouachita, Louisiana. That the source of energy was natural gas and the work of the prime mover or prime movers was described as that of generating electricity and compressing natural gas. That the total quantity of horsepower of capacity produced and used by the said Arkansas-Louisiana Pipe Line Company at its said plant located at Sterlington in Ouachita Parish, according to the manufacturer's rating, aggregates 10,500 horsepower of capacity of the machinery or apparatus known as the prime mover or prime movers.

3rd. That the total amount of tax due the State of Louisiana by the said Arkansas-Louisiana Pipe Line Company for the operation of its said plant located at Sterlington in the Parish of Ouachita, Louisiana, during the period from August 1, 1932 to and including July 31, 1933, is $10,500.00,

being the tax levied by Section 3 of Act 6 of 1932 for the horsepower of capacity of the machinery or apparatus known as the prime mover or prime movers operated by [fol. 77] the said company at the rate of $1.00 per annum for each horsepower of capacity of the machinery or apparatus known as the prime mover or prime movers. That the aforesaid amount of tax is subject to a credit of $3,184.00 heretofore paid by the said Arkansas-Louisiana Pipe Line Company according to the report submitted by the said company to the Supervisor of Public Accounts of the State of Louisiana, which report is sworn to by B. R. Muirhead, Treasurer, under date of August 31, 1933, thus leaving a balance of $7,316.00 for the operation of the plant of the said company at Sterlington in Ouachita Parish, Louisiana. That the said tax became delinquent on September 1, 1933, and is, therefore, subject to a penalty of 25% of the amount of tax on account of failure to have paid the same, which penalty amounts to the sum of $1,829.00, thus making a total due the State of Louisiana of $9,145.00, all of which is wholly due and unpaid, and as provided by Section 6 of the aforesaid Act.

4th. That the said Arkansas-Louisiana Pipe Line Company is legally obligated to the State of Louisiana for the power tax levied by Act 6 of 1932 covering the operation of its plant located at Sterlington in the Parish of Ouachita, Louisiana, in the principal sum of $7,316.00, after allowing due credit for the amount paid thereon as aforesaid, plus the penalty of $1,829.00 for delinquency as aforesaid, together with 10% on the aggregate amount of said tax and penalty as attorney's fees, and all penalties as provided by the general license laws of this state, together with all costs, pursuant to the provisions of the said Act 6 of 1932, known as the power tax law.

5th. That the aforesaid statement under oath is made for the purpose of filing the same in the mortgage records of the clerk and ex-officio recorder of the Parish of Ouachita, State of Louisiana, in which parish, at Sterlington, the said Arkansas-Louisiana Pipe Line Company is and has been during the period aforesaid conducting and operating its aforesaid business, in order that the same shall operate as a first lien, privilege and mortgage on all the property of the tax debtor in the Parish of Ouachita, and especially upon the machinery and other equipment of the Arkansas-

Louisiana Pipe Line Company located at its plant at Sterlington in said parish and state, pursuant to the provisions of Act 6 of 1932, and especially Section 6 thereof.

Alice Lee Grosjean, Supervisor of Public Accounts.

Sworn to and subscribed before me this 24th day of July, 1934. W. A. Cooper, Notary Public.

[fol. 78] EXHIBIT 4 TO AFFIDAVIT

Arkansas Louisiana Pipe Line Company

Shreveport, Louisiana, Box 1734

35 acres. In N. E. corner Sec. 46 Twp. 20 N. R. 4 E. being 1383 feet along East bank Ouachita by 1015.60 feet by 1095.30 feet by 1647 feet bought of Cole as per deed Book 186-797, Misc. land	$5,250.00
4 acres. In N. W. corner Lot 1 Sec. 31 Twp. 20 N. R. 4 E. bought of D. Y. Smith as per deed misc. land	1,000.00
Strip of land in Sec. 41 Twp. 19 N. R. 3 E 50 by 100 feet bought of J. W. Parks as per Deed Bk. 190-415 lot	150.00
148 Acres in Secs. 21, 28, 37 & 38 Twp. 18, N. R. 4 E. bought of D. A. Breard as per deed Book 181-598 misc. land	1,500.00
Compressor Station	619,650.00
10.10 miles 20 in. pipe	195,400.00
Gathering Line Misc. pipe	14,190.00
10 met. and Reg.	2,000.00
Private Telephone	1,010.00
10 Gas wells	30,000.00
	$870,150.00

State tax 5¾ $5,003.36, parish tax 4 mill 3,480.60, Dist. Levee 2½ 2,167.85, school tax 3 mill 2,610.45, Dist Road #1 2¼ mi. 1,957.84, Road Main 2 mil. 1,740.30, spec. school 4,350.75, Court House and jail ¾ mi. tax 652.61, 1 mi. junior College $870.15, ½ mi. Sr. Rd. #2 $435.08, Total $23,268.99.

I hereby certify that the above and foregoing is a true and correct copy of the original assessment of the Arkansas-Louisiana Pipeline Company for the year 1933, said above itemized taxes being paid by said company under date of January 12th, 1934.

This 6th day of September, 1934.

Milton Coverdale, Sheriff and Ex-Officio Tax Collector, Parish of Ouachita, Louisiana, by C. D. Meredith, Deputy.

[fol. 79] EXHIBIT 5 TO AFFIDAVIT

Arkansas Louisiana Pipe Line Company

Shreveport, Louisiana, Box 1734

J. C. Hamilton, Agent

35 acres. In N. E. corner of Section 46, Twp. 20, N. R. 4 East, being 1383 feet along East Bank Ouachita River by 1095.30 feet by 1647 feet bought from Cole as per deed, misc. land	$5,250.00
4 Acres. In N. W. corner Lot 1 Sec. 31, Twp. 20, N. R. 4 East bought of D. Y. Smith as per deed. Bk. 188-381, Misc. land	1,000.00
Strip of land in Sec. 41 Twp. 19, N. R. 5 E 50 by 100 feet bought of J. W. Parks as per deed, Bk. 190-415 Lot	150.00
148 acres. In Secs. 21, 28, 37 and 38 Twp. 18 N. R. 4 E. Bought of D. A. Breard as per deed Bk. 181-598, misc. land	1,500.00
1 auto	140.00
Compressor Station	688,500.00
10.10 miles 20 in. pipe	184,390.00
1.60 miles 10 in. pipe	10,280.00
3.18 miles 4 in. pipe	6,290.00
.70 miles 3 in. pipe	1,350.00
4.27 miles 4 in. pipe	6,510.00
10 Met. & Reg.	2,000.00
Telephones	1,010.00
10 gas wells	30,000.00
	$938,370.00

5¼ mill state tax $5,395.63, 4 mi. parish tax $3,753.48, 2½ mi. Dist. Levee 1,562.50, 3 mi. school tax 2,815.11, 2.125 mi. Dist. road tax 1,994.04, 2 mi. Road Main. 1,876.74, 3½ mi. spec. school tax 3,284.30, ½ mi. Court House and jail tax $469.19, 1 mi. Junior College 938.37, ½ mil. SP. Road tax $469.19, Total $22,558.55.

I hereby certify that the above and foregoing to — a true and correct copy of the assessment of the Arkansas Louisiana Pipe Line Company for the year 1932, said above itemized taxes being paid by said Company under date of December 31st, 1932. This the 30th day of August 1934.

Milton Coverdale, Sheriff & Ex-Officio Tax Collector, Parish of Ouachita, Louisiana, by C. D. Meredith, Deputy.

(Here follows two photolithographs, side folios 80, 81-82)

Ark. La. Pipe Line Co. Ex. 6

STATE OF LOUISIANA, PARISH OF OUACHITA Ward One

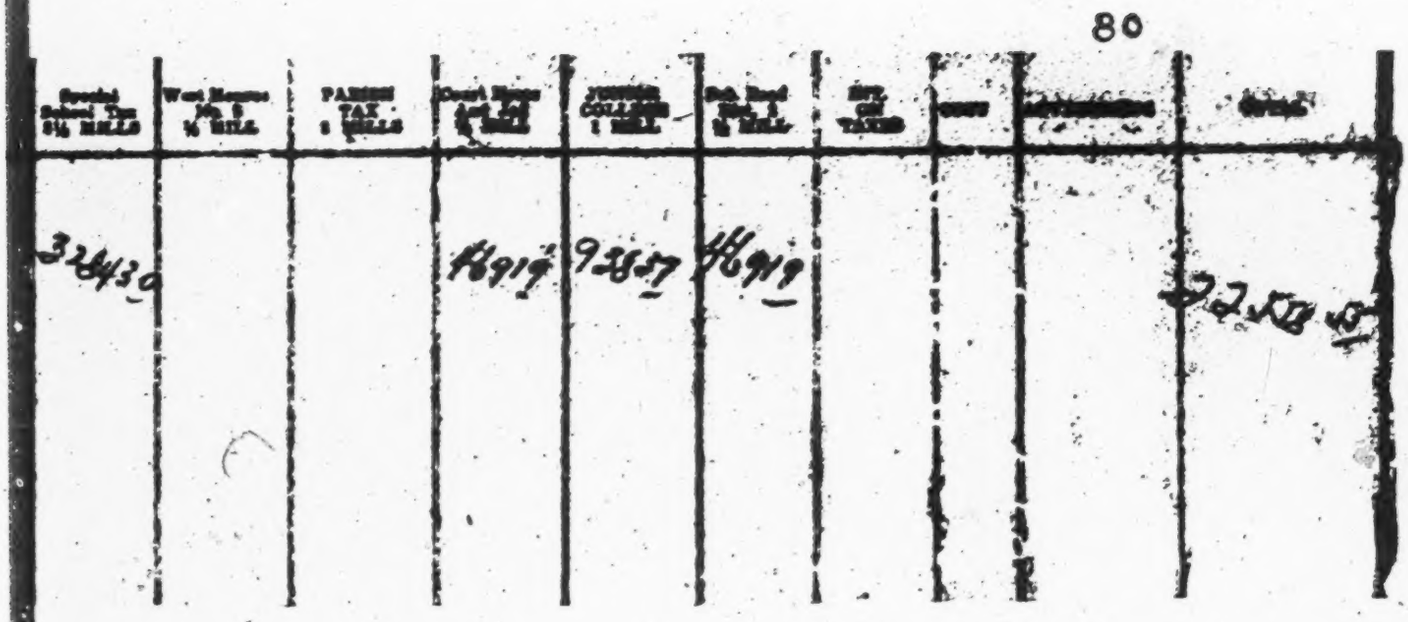
No. 5673 Monroe, La. Dec 31, 1932

Received of Arkansas Louisiana Pipe Line Co.

Amount of Taxes as itemized for the year 1932 on property described on reverse hereof in accordance with law.

MILTON COVERDALE,
Sheriff and Ex-Officio Tax Collector.

5½ MILLS STATE TAX	4 MILLS PARISH TAX	POLL TAX $1.00	5½ MILLS Bonded Levee Tax	2 MILLS SCHOOL TAX	ROAD DIST. NO. 1 5½ MILLS	ROAD TAX 2 MILLS	Special School Tax 5½ MILLS
$39.63	37.34		156.50	28.15	199.04	187.74	32.43


32430
46919
92857
46919
92458

Ark. La. Pipe Line Co. Ex. 7

STATE OF LOUISIANA, PARISH OF OUACHITA Ward *One*

№ 6939 Monroe, La., *Jan 12 -* , 193*4*

Received of *Arkansas Louisiana Pipeline Co*

Amount of Taxes as itemized for the year 1933 on property described on reverse hereof in accordance with law.

MILTON COVERDALE,
Sheriff and Ex-Officio Tax Collector.

5¾ MILLS STATE TAX	4 MILLS PARISH TAX	POLL TAX $1.00	2½ MILLS District Levee Tax	3 MILLS SCHOOL TAX	ROAD DIST. NO 1 3½ MILLS	ROAD TAX 2 MILLS
5003 36	3480 60		2167 25	2610 45	1957 84	1740 30

35 Acres:- In northeast corner section 46 Tp
east bank of Ouachita River 1015.60 feet by
Cole as per deed. 4 Acres:- In northwest cor
bought of D,Y. Smith as per deed. Strip of l
50 by 100 feet bought of J.W. Parks as per d
21,20,37 and 38 Tp 18 NR 4 E. bought of D.A.

Line Co. Ex. 7

ROAD DIST NO 1 3¼ MILLS	ROAD TAX 3 MILLS	Special School Tax 5 MILLS	West Monroe Drain No 1 3¼ MILLS	PARISH TAX 2 MILLS	Court House and Jail ½ MILL	JUNIOR COLLEGE 1 MILL	Sub Road Dist 2 ½ MILL	INTEREST ON TAXES	COST
185.78	174.30	435.75			65.26	87.15	43.58		

rner section 46 Tp 20 NR 4 E. being 1383 feet along
r 1015.60 feet by 1095.30 by 1647 feet bought of
- In northwest corner lot 1 section 31 Tp 20 NR 4 E
r deed. Strip of land in section 41 Tp 19 NR 3 E.
W. Parks as per deed. 148 Acres:- In sections
E. bought of D.A.Breard as per deed.

[fol. 83] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF WALTER A. STEWART—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared Walter A. Stewart, who, being by me duly sworn, deposes and says:

That he is, and has for twelve years been, a resident of Shreveport, Louisiana. That he has been employed since December, 1928, by Arkansas-Louisiana Pipeline Company, complainant in the above entitled and numbered cause, and since July, 1931 he has been Chief Clerk of the Gas Accounting Department of the said Company.

The main pipelines, including the 20-inch gas pipeline from Sterlington, Ouachita Parish, Louisiana, to Waskom, Texas, are provided at all points of intake and outlet with measuring meters equipped in many cases with thermometers. These meters carry charts automatically recording amounts of gas passing through such meters and these charts are changed daily, the original charts being received by deponent in connection with his duties. This was true during all of the year ending July 31st, 1933.

From the original meter charts deponent tabulated, during the year ending July 31st, 1933, amounts of gas received and delivered into and from the said 20-inch gas pipeline, and from such original records authorized payment by com-
[fol. 84] plainant for all gas received from purchasers and rendered invoices, which were duly paid, for all gas sold from said pipelines.

From the records of complainant, thus kept by deponent and by persons under his immediate supervision, deponent has prepared an exhibit, attached hereto and made part hereof, showing in detail, as to the 20-inch pipeline from Sterlington, Louisiana, to Waskom, Texas, and the line connected thereto at Blanchard, for the year ending July 31st, 1933, the receipt into said line of gas purchased and gas produced from complainant's own wells, and the deliveries from such lines, as well as the points of deliveries. Said exhibit is attached to and made part hereof as "Exhibit 9". All of said information is tabulated on the first page of said

Exhibit, but there is attached thereto detail by months of the facts shown upon the first page of said Exhibit.

As appears in detail from said Exhibit, 96.6% of the gas transported through the said 20-inch pipeline westward from Sterlington was transported out of the State of Louisiana, and sold, either in Texas or in Arkansas, by complainant to purchasers there.

Deponent further says that the statements herein made are statements of fact within his knowledge.

W. A. Stewart.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 85] EXHIBIT 9 TO AFFIDAVIT

Arkansas Louisiana Pipeline Company

Statement Showing the Disposition of the Gas in the 20" Line from Munce Station to Waskom, Texas

Year Ending July 31, 1933

		M. C. F.	M. C. F.
Gas production:			
Richland Field		1,659,769	
Monroe Field		352,628	
Total Gas Production			2,012,397
Gas Purchased:			
Dixie Gulf Contract Munce Station	13,552,359		
Other Purchases " "	2,527,822		
Total Purchases Munce Station		16,080,181	
Bellevue Field		273,081	
Total Gas Purchased			16,353,262
Total Gas Produced and Purchases			18,365,659
Other Main Line Sales:			
Delivered to United Gas Public Service Company at Waskom, Texas	13,572,418		
Empire Southern Gas Company, Minden, La	231,315		
Total Other Main Line Sales		13,803,733	
Inter Company Sales for Resale:			
Southern Cities Distributing Company, Bernice, Louisiana	7,131		
Southern Cities Distributing Company, Dubach, Louisiana	5,637		
Southern Cities Distributing Company, Munce Domestics	1,200		
Southern Cities Distributing Company, Main Line Domestics	8,022		
Total Inter Company Sales for Resale		21,990	
Delivery to Arkansas Systems:			
Gas Distributed in Louisiana	171,196		
Gas delivered out of State to Texas and Arkansas	4,173,368		
Total Delivery to Arkansas System		4,344,564	
Free, Company Used and Unaccounted for Gas:			
Free	493		
Company Used	276,196		
Unaccounted for Gas	81,317†		
Total Free, Company Used and Unaccounted for Gas		195,372	
Total Disposition of Gas			18,365,659

† Red in copy.

EXHIBIT 9 TO AFFIDAVIT—Continued

[fol. 86] Arkansas Louisiana Pipeline Company

Sales 20" Line—M. C. F.

Year Ending July 31, 1933

	Industrial Sales	Other Main Line Sales: United Gas Co. Contract	Other Main Line Sales: Minden Gas Company	Total Other Main Line Sales
August	.....	1,112,977	.....	1,112,977
September	.....	1,101,509	.....	1,101,509
October	.....	1,065,218	19,393	1,084,611
November	.....	1,166,998	26,789	1,193,787
December	.....	1,177,837	35,245	1,213,082
January	.....	1,231,287	27,822	1,259,109
February	.....	1,234,145	38,158	1,272,303
March	.....	1,109,475	27,441	1,136,916
April	.....	1,144,141	17,822	1,161,963
May	.....	1,065,248	13,252	1,078,500
June	.....	1,095,352	12,824	1,108,176
July	.....	1,068,231	12,569	1,080,800
Total	.....	13,572,418	231,315	13,803,733

Inter-Company Sales for Resale:

	Bernice	Dubach	Munce Domestic	Main Line Domestics	Total	Arkansas System Delivery
August	268	196	40	292	796	223,656
September	575	171	47	2,142	2,935	363,640
October	714	336	88	1,652	2,790	531,605
November	971	781	122	798	2,672	736,906
December	959	896	212	609	2,676	740,459
January	913	824	169	467	2,373	340,646
February	897	778	163	456	2,294	414,932
March	709	590	132	390	1,821	148,202
April	429	369	96	353	1,247	195,827
May	275	263	64	260	862	214,714
June	217	219	65	306	807	217,301
July	204	214	2	297	717	216,676
Total	7,131	5,637	1,200	8,022	21,990	4,344,564

	Free	Co. Used	Leakage	Total
August	9	18,855	7,716†	11,148
September	11	23,384	4,957†	18,438
October	24	23,099	898	24,021
November	40	29,710	10,820†	18,930
December	108	33,236	6,859†	26,485
January	77	24,275	7,492†	16,860
February	36	26,683	7,341†	19,378
March	53	18,683	5,595†	13,140
April	72	19,229	13,186†	6,115
May	30	18,910	7,155†	11,785
June	25	19,504	6,036†	13,493
July	8	20,629	5,058†	15,579
Total	493	276,196	81,317†	195,372

† Red in copy.

EXHIBIT 9 TO AFFIDAVIT—Continued

[fol. 87] Arkansas Louisiana Pipeline Company

Input 20" Line—M. C. F.

Year Ending July 31, 1933

Production	Richland Field	Monroe Field	Total
August	72,102	.....	72,102
September	245,047	.....	245,047
October	350,435	15,480	365,915
November	403,212	40,851	444,063
December	346,099	37,266	383,365
January	190,225	37,653	227,878
February	52,649	36,629	89,278
March	.....	32,784	32,784
April	.....	34,842	34,842
May	.....	38,134	38,134
June	.....	37,841	37,841
July	.....	41,148	41,148
Total	1,659,769	352,628	2,012,397

Purchases:

	Dixie Gulf Contract	Other Monroe Purchase	Total Munce Purchases	Bellevue Field Purchase	Total Purchase
August	1,102,700	135,503	1,238,203	38,272	1,276,475
September	1,096,223	124,795	1,221,018	20,457	1,241,475
October	1,081,049	177,099	1,258,148	18,964	1,277,112
November	1,202,022	287,789	1,489,811	18,421	1,508,232
December	1,150,131	432,561	1,582,692	16,645	1,599,337
January	1,155,180	217,272	1,372,452	18,658	1,391,110
February	1,280,217	321,907	1,602,124	17,505	1,619,629
March	1,087,199	164,621	1,251,820	15,475	1,267,295
April	1,141,560	166,374	1,307,934	22,376	1,330,310
May	1,072,586	167,677	1,240,263	27,464	1,267,727
June	1,102,859	168,296	1,271,155	30,781	1,301,936
July	1,080,633	162,928	1,244,561	28,063	1,272,624
Total	13,552,359	2,527,822	16,080,181	273,081	16,353,262

[fol. 88] Arkansas Louisiana Pipeline Company

Gas Distributed by Arkansas System in Louisiana, North of Junction Wit. 20" Line

Year Ending July 31, 1933

Month	Sales to Inter-Company for Resale	Gas Used By Company		Total Gas Distributed
		Rogers Station	Mills Station	
August —1932	3,653	2,932	17	6,602
September —1932	3,638	7,867	13	11,518
October —1932	5,688	9,639	11	15,338
November —1932	10,579	9,513	13	20,105
December —1932	14,421	9,310	184	23,915
January —1933	11,315	5,091	169	16,575
February —1933	13,009	5,384	292	18,685
March —1933	9,512	1,030	175	10,717
April —1933	7,239	5,829	158	13,226
May —1933	4,828	7,702	197	12,727
June —1933	4,397	6,178	344	10,919
July —1933	3,938	6,812	119	10,869
Total	92,217	77,287	1,692	171,196

[fol. 89] IN UNITED STATES DISTRICT COURT.

[Title omitted]

AFFIDAVIT OF ROBERT H. JOHNSTON—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared Robert H. Johnston, who, being by me duly sworn, deposes and says:

That he is and has for four years been a resident of Shreveport, Caddo Parish, Louisiana, during all of which time he has been employed as Chief Gas Dispatcher of Arkansas-Louisiana Pipeline Company, complainant in this cause. Prior to that time deponent was employed at Sterlington, Ouachita Parish, Louisiana, and was in charge of receipts of gas purchased from persons producing same.

As such Chief Gas Dispatcher, deponent is in communication by telephone with the entire gas pipeline system of complainant during the eight business hours of each day; and after business hours is subject to call and often is called in connection with the movement of gas through the Company's pipeline system. Deponent has two assistants and one relief assistant, but is himself on duty at least eight hours in each day. Deponent's duties as such Chief Gas Dispatcher require him to be in constant communication with other employees of the Company at all points of the pipeline system, to be familiar at all times with pressures maintained at all points of the pipeline system, and volumes of gas being [fol. 90] transported through each line in the pipeline system. Deponent's duties fundamentally are to maintain sufficient pressures and volumes of gas in the pipelines to insure deliveries of volumes of gas required in the Company's business at the time such gas is required.

In connection with the 20-inch gas pipeline extending from Munce Compressor Station, in Ouachita Parish, to Waskom, Texas, deponent, in his duties and to meet the requirements of complainant's business, is required to insure the delivery through the 20-inch gas pipeline from Munce Compressor Station of a daily volume of gas ranging, dependent upon season and other requirements, from forty-five million cubic feet of gas per day to eighty-five million cubic feet of gas per day; of the above amount, average daily

deliveries to United Gas Public Service Company, through said line to Waskom, Texas, amount to thirty-seven million cubic feet; the balance of the gas required to be moved through the 20-inch line is delivered at a connection of said 20-inch line to the 16-inch line at or near Blanchard, Louisiana, and is thence transported northward into Texas and Arkansas, and ultimately to various points, such as Texarkana and Little Rock in the State of Arkansas, and other points, such as Atlanta, in the State of Texas.

The gas which is thus required in the Company's business to be delivered into Texas and Arkansas through said 20-inch line can not be delivered from the wells producing in the Monroe and Richland fields without the use of power in the form of compression; gas from wells in the Richland gas field, which is delivered into the 20-inch line, arrives at Sterlington at the compressor station with a pressure averaging about 90 pounds per square inch; gas delivered into said line from the Monroe gas field is delivered at Munce Compressor Station with an average pressure of about 220 pounds per square inch. Gas from neither field could be delivered [fol. 91] through the 20-inch gas pipeline to Waskom or northward into Arkansas, in amounts sufficient to meet the requirements of the Company's business, without the use of compression in order to increase the pressure of such gas in the 20-inch pipeline. If the gas from the Monroe field should be placed in the 20-inch pipeline without the use of compression it would be impossible to put through the line more than approximately twenty-five or thirty million cubic feet per day at the required pressures; and no part of the gas from the Richland field could be transported through the said line while same was connected with wells from the Monroe field at 220 pounds per square inch pressure.

It is necessary, in order to deliver gas through the 20-inch line at pressures and in volumes sufficient to meet the requirements of the Company's business, to maintain a pressure in said 20-inch line at Sterlington at approximately from 275 pounds per square inch to 450 pounds per square inch, dependent upon volumes of withdrawals at various points. The maintenance of such pressures at Sterlington, in order to meet the requirements of the Company's business, make it impossible to deliver any amounts of gas whatever from wells, whose rock pressure is less than the pressure in the gas pipeline, without the use of engines and com-

pressors at the points of intake. All of the gas produced in the Richland gas field is produced at pressures less than 275 pounds, so that none of said gas can be delivered into the 20-inch line, herein referred to, without the use of power in the form of compression where the said line has pressures sufficient to meet the requirements of the Company's business; there are also in the Monroe gas field many wells with working pressures so low that the gas from such wells could not be utilized and delivered into the said 20-inch line without the use of compression for the reasons herein mentioned. Munce Compressor Station is some twenty-five miles from wells in Richland Parish gas field, and pressures of the gas upon arrival at Munce Station from that field are lower than working pressures at the wells, and this fact likewise requires the use of additional compression in order to deliver [fol. 92] gas produced in the Richland field into the complainant's line.

The Munce Compressor Station mechanically consists of ten 1,000 horsepower Cooper Bessemer gas burning engines, directly connected to ten gas compressors; in order to maintain required pressures in the 20-inch gas pipeline herein referred to, deponent, as complainant's Chief Gas Dispatcher, from time to time directs the use of more or less of the power available from such engines and pumps at Munce Station; the amount of power and consequent compression necessary at the Munce Station depends upon the pressures at which gas is received, and the amounts and pressures at which gas is withdrawn from the line at various points, and deponent from time to time, as herein stated, directs the use of more or less power at Munce Station to meet conditions as they arise. During the period ending July 31st, 1933, the average number of such pumping units required for the purpose of delivering gas for the requirements of the Company's business, was from three to four pumps; to meet unusual requirements or lowered intake pressures on some occasions five, or even six pumping units were required. The balance of said pumping units were maintained as standby equipment, but all of the pumps are used approximately the same number of hours in order to equalize wear and depreciation. The additional unused capacity of the station is also maintained in order to have available sufficient power to meet the needs of the Company's business when working pressures in the Monroe and Richland fields fall to

an extent sufficient to require additional compression. On one occasion, during the year ending July 31st, 1933, seven of such pumping units were in use at the same time, and that was the only occasion when as many as seven pumps have been used at one time. The use of seven pumps at that time was necessary because of an emergency created by accidental breaking of gathering lines in the field and the consequent lowering of intake pressures of gas from the wells remaining connected to the gathering system on account of heavy withdrawals of gas.

During the year ending July 31st, 1933, all of the gas which was delivered into complainant's 20-inch gas pipeline at [fol. 93] Sterlington was compressed by the pumps at Munce Compressor Station.

Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge; and the facts herein detailed as to conditions all refer to conditions existing during the year ending July 31st, 1933.

Robert H. Johnston.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana.

[File endorsement omitted.]

[fol. 94] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF W. H. BUCKLEY—Filed November 17, 1934

Before me, P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana, at Shreveport, in Caddo Parish, Louisiana, in the Western District of Louisiana, on this 17th day of November, 1934, appeared W. H. Buckley, who, being by me duly sworn, deposes and says:

That he has resided in Caddo Parish, Louisiana, since 1911 and in Shreveport since 1927; during all of that time he has been employed in the gas business by Arkansas-Louisiana Pipeline Company, complainant in this cause, or by the corporations to which it is successor. Until 1926

deponent was in compressor station and construction work; at all times since 1928, he has been superintendent of complainant, in direct charge of all gas production, pipe lines, gas transportation, compressor stations and pipe line sales (that is, wholesale gas sales).

During the year ending July 31st, 1933, the gas properties of Arkansas-Louisiana Pipeline Company consisted of producing leases and gas wells in the Richland and Monroe gas fields, in the Bossier Parish gas field, Caddo Parish gas field, Webster, DeSoto, and Panola County, Texas, and in the gas fields of Johnson County and Pope County, Arkansas. The Company has field gathering systems, in all of the gas fields mentioned, connected with the main pipelines owned by the Company. The largest pipeline [fol. 95] owned by the Company is the 20-inch gas pipeline extending from Munce Compressor Station (where it is connected to the field gathering systems) to a point very near the Louisiana-Texas line, from whence it continues to Waskom, Texas, as two 16-inch pipelines. At or near Blanchard, Louisiana, there is connected to the said 20-inch pipeline a 16-inch pipeline extending northward through Caddo Parish into Arkansas; branching from said line in Caddo Parish and extending into various points in Texas are pipelines serving various communities in East Texas. Said line extends onward into Arkansas, carrying gas to Texarkana, Arkansas and Texas, and on to Little Rock, transporting gas there and also to intermediate points. The Company also owns and operates various other pipeline systems. There is attached to and made part of this affidavit, marked "Exhibit 8", a map showing the 20-inch pipeline and connecting lines herein mentioned.

At the point of origin of said line in Ouachita Parish, at Sterlington, is Munce Compressor Station. Munce Compressor Station consists, mechanically, of ten 1,000 horsepower gas burning Cooper Bessemer engines directly connected to ten gas compressors; in addition, there are buildings to house the machinery, employees' homes, machine shop and incidental buildings, and two 250 horsepower gas burning engines directly connected to electric generators. The whole is situated on a tract of about thirty-five acres of land.

The 20-inch gas pipeline is one of the largest in the gas fields of the Southwest; it was constructed beginning in 1929 in order to have a capacity sufficient for delivering to

the Shreveport area served by complainant, into Texas to meet contracts between complainant and purchasers there of gas, and into the Arkansas pipeline, a quantity of gas from the Monroe and Richland fields sufficient to meet the known and immediately anticipated needs of the Company's business at the points mentioned. Gas in sufficient quantity to meet the requirements of the Company's business at the points mentioned will not flow through the 20-inch line and Arkansas system without the maintenance of a [fol. 96] pressure at the origin of the line, in Ouachita Parish, of from 275 pounds to 450 pounds per square inch. At no time since 1931 has it been possible, on account of increased requirements of complainant's business and decreased well pressures in the Monroe and Richland fields, to maintain such required pressures in the 20-inch line without the use of from three to six of the engines and compressors at Munce Station.

At the time of the construction of said station, it was planned and built with pumping capacity in excess of that then needed. The ten engines and compressors were installed when only a part were then necessary; the excess pumps were installed in order to have at all times stand-by equipment to meet emergencies caused by breakdown of part of the equipment or by extremely unusual demands; to meet anticipated increased demand; and in order to have available sufficient pumping capacity to meet the situation which would result from the decreased well pressures in the Monroe and especially in the Richland fields which it was then known would shortly follow.

During the year ending July 31st, 1933, there were put in said 20-inch line at Sterlington approximately eighteen billion cubic feet of gas, all of which was pumped by the compressors at Munce Station. Of this amount, approximately four billion cubic feet were produced by complainant from its own wells and fourteen billion cubic feet purchased. All of this gas was transported westward through the 20-inch pipeline and approximately thirteen billion cubic feet were delivered to United Gas Public Service Company, at or near Waskom, in the State of Texas, with which company complainant has a contract for the sale of gas at Waskom, and the United Gas Public Service Company paid to complainant the purchase price of that gas. About four billion cubic feet were delivered at or near Blanchard, Louisiana, to the connection with the 16-inch

pipeline, and most of said gas transported into Texas and Arkansas for the use of the Company's business in those [fol. 97] States. Small amounts, compared to the total transported through the line, were used at Munce Compressor Station, delivered to Bernice and Dubach distribution systems, to Minden, Louisiana, to purchasers there, and other small amounts distributed in the northern part of Caddo Parish.

Without the use of the 20-inch line and engines and compressors at Munce Station herein described, complainant could not meet the requirements of its contract to deliver gas to United Gas Public Service Company at Waskom, Texas, nor would it have a sufficient amount of gas to meet the requirements of its business in its Arkansas pipeline system; this was true during the whole of the year ending July 31st, 1933.

Since, in order to meet the requirements of the Company's business at various points of delivery on the 20-inch pipeline, it is necessary to maintain pressures in the line at Sterlington at from 275 pounds to 450 pounds per square inch, the operation of the engines and compressors at Munce Station is necessary from the viewpoint of the production of gas from wells, and utilization of the allowable production of such wells as fixed by the Louisiana Conservation Commission for the following reasons, namely: some of the wells delivering gas into the line at Sterlington have pressures less than pressures necessarily maintained in the line; no gas from such wells could be delivered into the line without the use of engines and compressors. Further, as to wells with pressures only slightly in excess of line pressures, only comparatively small amounts of gas can be delivered into the line. Furthermore, the gas compressors maintained working pressures in the field gathering systems at figures lower than would otherwise obtain; without such use of the gas compressors to maintain lowered pressures in the gathering systems (brought about by pumping gas out of the gathering system into the main pipeline) low pressure wells would be unable to produce and deliver gas into the gathering system on account of the high pressure which would then be maintained in the field [fol. 98] gathering system by the high pressure wells connected thereto; such low pressure wells, which, through the use of the compressors are commercially profitable to operate, would otherwise have to be abandoned. This situation

obtained in the wells from which complainant took gas into the 20-inch line at Sterlington in the year ending July 31st, 1933.

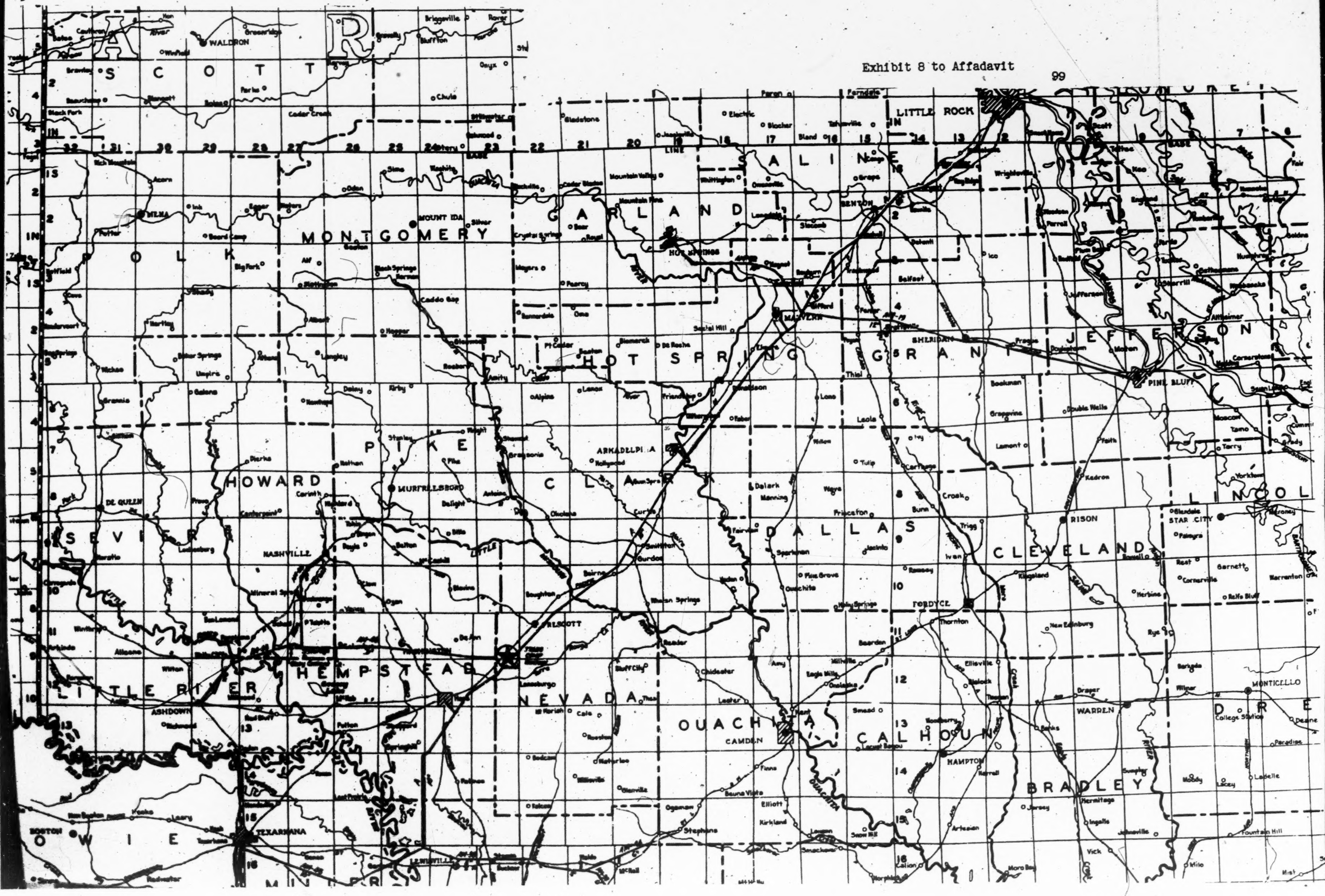
Deponent further says that the statements made in this affidavit are statements of fact within his knowledge.

W. H. Buckley.

Sworn to and subscribed before me, Notary, on this the 17th day of November, 1934. P. L. Perroncel, Notary Public in and for Caddo Parish, Louisiana. (Seal.)

[File endorsement omitted.]

(Here follows one photolithograph, side folio 99.)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PIKE
CLARK
SEVIER
DALLAS
CLEVELAND
LINCOLN
LITTLE RIVER
HEMPSTEAD
NEVADA
OUACHITA
CALHOUN
BRADLEY
DREW
MONTICELLO
LAFAYETTE
MILLER
BOWIE
TEXARKANA
HOT SPRINGS
MALVERN
BENTON
MOUNT IDA
MURFREESBORO
NASHVILLE
ARKADELPHIA
PRESCOTT
CAMDEN
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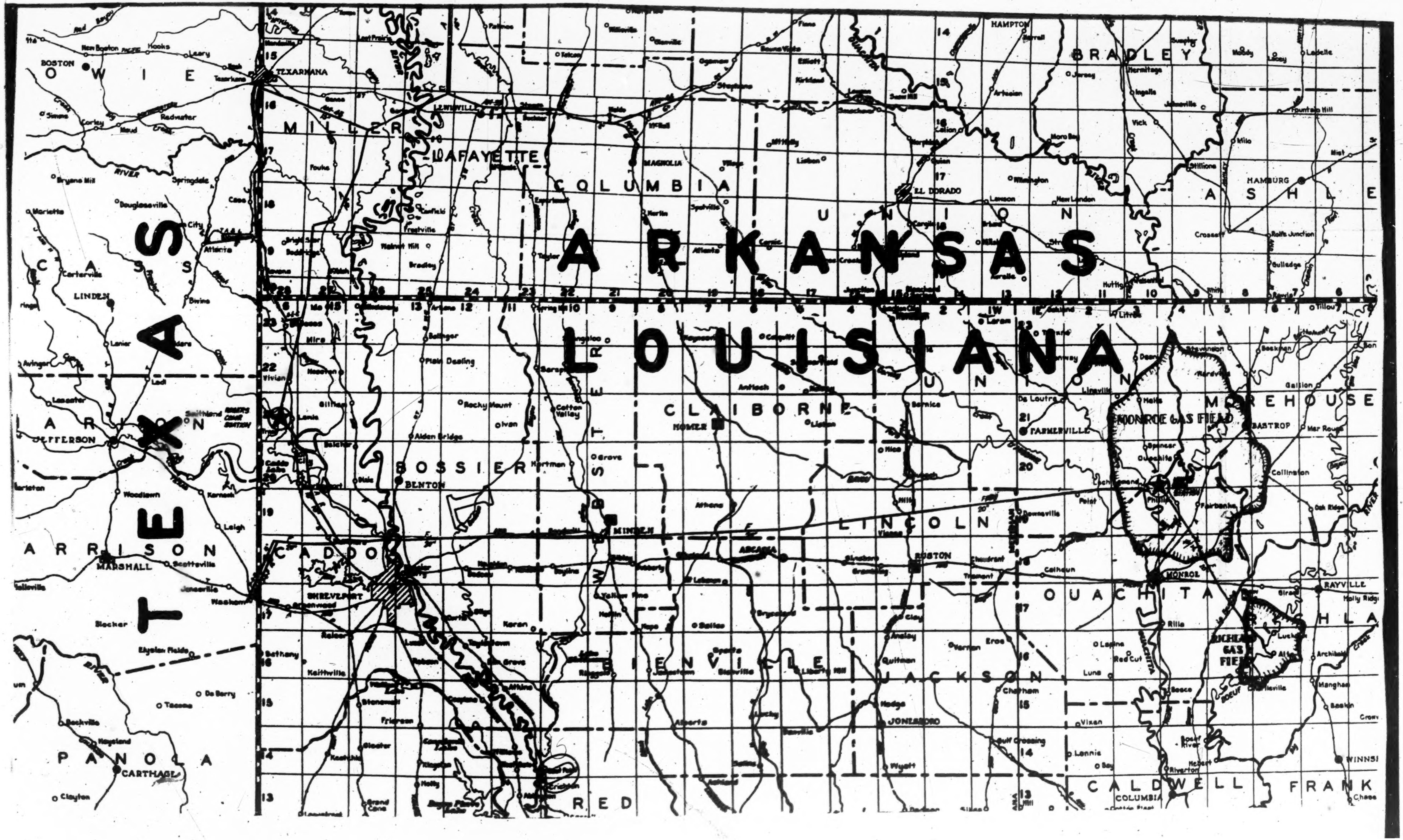
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TEXAS
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LAFAYETTE
COLUMBIA
UNION
BRADLEY
ASHLEY
CASS
MARION
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PANOLA
CADDO
BOSSIER
WEBSTER
CLAIBORNE
LINCOLN
BIENVILLE
JACKSON
OUACHITA
MOREHOUSE
CALDWELL
RED
BOSTON
TEXARKANA
New Boston
Hooks
Leary
Redwater
Maud
Corley
Springdale
Douglassville
Bryans Mill
Marietta
Atlanta
Linden
Lanier
Avinger
Lodi
Lassater
Jefferson
Woodlawn
Karnack
Leigh
MARSHALL
Scottsville
Waskom
Blocker
Elysian Fields
De Berry
Tacoma
Beckville
Hayslund
CARTHAGE
Clayton
Fouke
Canfield
Frostville
Bradley
Walnut Hill
Bright Star
Doddridge
Mandeville
Lost Prairie
LEWISVILLE
Stamps
Buckner
Patmos
Taloon
Willisville
Stephens
Buena Vista
Ogemaw
Elliott
Kirkland
McNeil
MAGNOLIA
Villega
Emerson
Lisbon
Taylor
Atlanta
Junction City
EL DORADO
Calion
Huttig
HAMPTON
Harrell
Artesian
Wilmington
Lawson
New London
Moro Bay
Hermitage
Ingalls
Johnsville
Vick
Jersey
Sumpter
Moody
Lacey
Ladelle
Fountain Hill
Milo
Stillions
Mist
HAMBURG
Crossett
Rolfe Junction
Gulledge
Tillou
Vivian
Gilliam
Belcher
Plain Dealing
Rocky Mount
Ivan
Alden Bridge
BENTON
Cotton Valley
Sarepta
Hortman
Grove
MINDEN
Haynesville
HOMER
Antioch
Athens
ARCADIA
Gibsland
Bryceland
Saline
Sparta
Ringgold
Jamestown
Bienville
Liberty Hill
SHREVEPORT
Greenwood
Keithville
Bethany
Stonewall
Frierson
Kingston
Holly
Grand Cane
Koran
Bernice
RUSTON
Vienna
Simsboro
Grambling
Choudrant
Calhoun
Downsville
Ansley
Quitman
Hodge
JONESBORO
Wyatt
Chatham
Gulf Crossing
Eros
Vernon
Farmerville
Lineville
De Loutre
MONROE GAS FIELD
Spencer
Ouachita
Fairbanks
MONROE
BASTROP
Mer Rouge
Collinston
Oak Ridge
Bonita
Gallion
RAYVILLE
Holly Ridge
RICHLAND GAS FIELD
Archibald
Mangham
Baskin
WINNSBORO
Rilla
Lapine
Red Cut
Luna
Vixen
Lonnie
Riverton
Hebert
Boeuf River
COLUMBIA
Chase
FRANKLIN

[fol. 100] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF A. B. SINGLETARY, JR.—Filed February 12, 1937

Before Me, the undersigned authority, personally came and appeared A. B. Singletary, Jr., who, after being duly sworn, did depose and say:

I am a resident of Baton Rouge, East Baton Rouge Parish, Louisiana. I graduated from the Louisiana State University in 1932, majoring in engineering. I am thoroughly familiar with the make-up and operation of internal combustion engines, including internal combustion gas engines, technically known as prime movers. I am also familiar with all phases of operation and construction of compressor units, used in compressing gas, and am also familiar with the various methods of transmitting mechanical energy after it has been manufactured.

I have on two occasions visited the plant commonly called the "Munce Compressor Station" of the Arkansas-Louisiana Pipeline Company located at Sterlington, Louisiana, and have carefully examined all the machinery and equipment situated on the site of the said "Munce Compressor Station", including the system of meters, cooling system, separators, and other equipment referred to herein.

Attached hereto and made a part hereof, marked "Exhibit A" for the purpose of identification, is a photograph [fol. 101] showing the same type of equipment used by the Arkansas-Louisiana Pipeline Company at its "Munce Compressor Station". On said photograph are shown three separate and distinct units. Marked by Roman Numeral III is the internal combustion gas engine unit; marked by Roman Numeral I is the compressor unit; and marked by Roman Numeral II is the power transmission unit. All of these units are identical with the units owned and operated by the Arkansas-Louisiana Pipeline Company at its "Munce Compressor Station", with the exception that the said units at the "Munce Compressor Station" are larger, that is, the internal combustion gas engine units are larger, the compressor units are larger, and, of course, the power transmission units are larger to take care of the increased mechanical power which is generated and manufactured by

the internal combustion gas engine units and which is transmitted through the power transmission units to the compressor units which use or consume said mechanical power.

On said photograph, marked "Exhibit A" for the purpose of identification, I have detailed the lettering and legend of the principle parts that make up the internal combustion gas engine unit, the parts making up the power transmission unit and the parts making up the compressor unit. Each of these units is separate and distinct insofar as its duties and functions are concerned.

The internal combustion gas engine unit marked by Roman Numeral III, on said photograph, is a unit separate and distinct in itself and complete in itself. It is bolted down to a concrete foundation at the "Munce Compressor Station" and has a permanent situs at said station, in the Parish of Ouachita, State of Louisiana.

This internal combustion gas engine unit is known as a "prime mover" and is used in generating and manufacturing mechanical power. By the use of said internal combustion gas engine unit, heat energy, which is contained in the natural gas used as fuel, is changed into mechanical energy. This changing of heat energy of natural gas into [fol. 102] mechanical energy is a manufacturing process and takes place in the following manner:

As the engine piston marked M, on said photograph attached hereto and marked "Exhibit A" for the purpose of identification, moves from the position marked L to the position marked L′, in the engine cylinder, a charge of natural gas and air is drawn into the engine cylinder through the gas intake valve marked O. On the return of the engine piston to the position marked L, this charge of gas and air is compressed, and just before reaching the point marked L, is ignited by an electric spark. The subsequent burning of this charge of gas and air in the engine cylinder forces the engine piston marked M back to the position marked L′; this is the stroke of the piston wherein the heat energy contained in the natural gas is converted into mechanical energy and this mechanical energy which has been imparted to the piston is transmitted by the piston rod marked K to the point of power take-off marked G. On the next stroke of the engine piston from the point marked L′ to the point marked L, the burned gases, resulting from the burning of

the charge of gas and air, are expelled from the engine cylinder through the exhaust valve marked N. From this point a similar cycle of operations occurs on the opposite side of the piston marked M. In the engine cylinder, marked I, two similar cycles of operations occurs as above described for the engine cylinder marked I', each power stroke of the piston in each cylinder imparting mechanical power to the piston rod marked K, henceforth to the point of power take-off marked G. The function of the large fly-wheel marked F is simply to smooth the power impulses imparted by the piston, thereby giving an even or steady motion to the entire internal combustion gas engine unit.

The mechanical energy generated and manufactured by the internal combustion gas engine unit is a new and dis- [fol. 103] tinct product, of value commercially, and is capable of transmission and use in industry and can be used to operate any sort or type of unit requiring mechanical power.

The operation of the above described internal combustion gas engine unit, which generates and manufactures mechanical energy, is entirely independent and separate from the operation of the transmission unit shown in said photograph and marked by Roman Numeral II, and is also entirely independent and separate from the operation of the compressor unit shown in said photograph and marked by Roman Numeral I.

Marked by Roman Numeral II, on said photograph, is shown the power transmission unit. The function of this unit is to transmit the mechanical power, generated and manufactured by the internal combustion gas engine unit, from the point of power take-off, marked G on said photograph, to the compressor unit marked Roman Numeral I, which unit uses or consumes the mechanical energy manufactured by the internal combustion gas engine unit.

Mechanical power, such as is manufactured by the above described internal combustion gas engine unit, could be transmitted to the compressor unit which uses it by any of the common means of power transmission, such as, belting, chains, shafting, etc.

Marked by Roman Numeral I, on said photograph attached hereto and marked "Exhibit A" for purposes of identification, is shown the compressor unit, which unit uses the mechanical energy or power generated and manufac-

tured by the internal combustion gas engine unit after said mechanical energy or power has been transmitted to it by the above described power transmission unit. This compressor unit performs a dual purpose. It draws gas from the nearby wells through a system of feeder lines in the gas fields, and after drawing the gas from the wells, compresses it and changes the condition of the gas from one [fol. 104] pressure to a higher pressure thereby allowing the gas to be delivered into the main pipeline of the Arkansas-Louisiana Pipeline Company as withdrawals are made at the opposite end of the line. This suction and compression of gas takes place in the compressor unit in the following manner:

The mechanical energy obtained from the internal combustion gas engine unit, through the power transmission unit, is in the form of a forward and backward motion. This forward and backward motion causes the compressor piston marked C in the photograph to move from the position marked B to the position marked B′ in the compressor cylinder. When the compressor piston marked C moves from the position marked B to the position marked B′, a suction is created in that part of the compressor cylinder marked B which suction draws the gas from the feeder lines of the field gathering system into the compressor cylinder. The return of the compressor piston from the point marked B′ to the point marked B compresses this gas in the compressor cylinder to a higher pressure and said gas is delivered through the gas outlet marked D into a pipe leading to the cooling system at the "Munce Compressor Station". A similar cycle of suction and compression occurs on the opposite side of the compressor piston in the compressor cylinder marked B′.

Mechanical power or energy is necessary to the operation of any compressor unit.

There are three common methods of manufacturing mechanical power or energy which is necessary to operate compressor units. First, the method used at the "Munce Compressor Station", whereby an internal combustion gas engine unit is used to convert heat energy of natural gas into mechanical power or energy; second, the use of an electric motor which converts or manufactures electrical energy into mechanical energy; third, the use of a steam engine which converts or manufactures heat energy of steam

into mechanical energy. In each case a new and distinct form of energy results from a manufacturing process; that is, changing one type of energy into mechanical energy and [fol. 105] in each case this new product is capable of transmission and use in industry.

With the equipment appearing in said photograph, the Arkansas-Louisiana Pipeline Company is doing three things; first, by the use of the internal combustion gas engine unit, marked Roman Numeral III, it is changing heat energy contained in the natural gas used as fuel, into mechanical energy, which is manufacturing. This manufacturing process is intrastate in character and is comparable and similar in every detail in this respect to other plants in Louisiana manufacturing power, such as electric power plants, etc. Second, by the use of the transmission unit, marked Roman Numeral II, it is transmitting said mechanical energy, after said mechanical energy has been produced or manufactured. Third, by the use of the compressor unit, marked Roman Numeral I, it is using mechanical energy after it has been manufactured and transmitted.

The word "power", as used by engineers, indicates energy under human control and available for doing work. The principal sources of power are the muscular energy of man and animal; the kinetic energy of the winds and streams; the potential energy of waters at high levels, of the tides and waves, the heat of the earth and sun; and heat energy derived from the combustion of fuels. The change of one form of energy into another form of energy through the medium of an engine, or other type of prime mover, is manufacturing. The heat energy contained in fuels is one form of energy and the mechanical energy resulting from the combustion of fuels in an internal combustion engine is another form of energy, having entirely different properties from the heat energy of fuels. This mechanical energy resulting from the combustion of fuels in an internal combustion engine is capable of measurement by the use of formulas recognized by engineers and the unit of measurement is called horsepower. The horsepower of internal [fol. 106] combustion gas engine units, such as involved in the present suit, and used by the Arkansas-Louisiana Pipeline Company, at its "Munce Compressor Station", is measured in the following manner:

The internal combustion gas engine unit is first run under no-load, that is only a quantity of natural gas and air is admitted to the engine cylinder necessary to run the engine at its normal speed without any connected load. At this condition of no-load, an indicator card is taken at each combustion chamber of the engine from which the mean effective pressure for each combustion chamber is computed, and from this an average mean effective pressure is computed for all combustion chambers. Having the effective area of the engine piston in square inches, the length of stroke of the engine piston in feet and the number of revolutions per minute, the indicated horsepower of the engine at no-load is computed by substituting the above values in the formula:

$$\text{I.H.P.} = \frac{A \times P \times S \times N}{33{,}000} \times C$$

Where: I.H.P. = Indicated horsepower
A = Effective area of the engine piston in square inches
P = Average mean effective pressure in pounds per square inch
S = Length of stroke of piston in feet
N = Number of power strokes per minute
C = Number of combustion chambers

The engine is next run under full load; that is, all the load the engine will stand without the speed of the engine falling off below a certain point. The same procedure, as above described, is then followed and the indicated horsepower again computed. The actual brake horsepower of the engine is then the difference between the horsepower computed for full-load and for no-load. Before any internal combustion engine is sold, tests are run by the manufacturer to determine what the maximum brake horsepower of said [fol. 107] engine is at normal speed and the manufacturer then gives a brake horsepower rating to said engine not to exceed the brake horsepower the engine is proven capable of manufacturing or producing.

It is evident that the brake horsepower of internal combustion gas engine units, such as used by the Arkansas-Louisiana Pipeline Company, is determined solely by reference to the internal combustion gas engine unit. The

power transmission unit and the compressor unit have nothing whatever to do with the determination of said brake horsepower. In other words, the brake horsepower rating of the internal combustion gas engine units is the amount of power that is generated or manufactured by changing the heat energy of the fuel, natural gas, into mechanical energy.

Prior to the discovery of electricity, the principal uses of mechanical power, manufactured by internal combustion engines, were for driving shafting, pumps, compressors, hoists, and the like. Since the discovery of electricity, it has often been found more economical to manufacture mechanical energy at one place and then convert this mechanical energy into electrical energy. The electrical energy is then transmitted over wires to the place mechanical power or energy is needed. In such a case, some form of natural energy, such as the heat energy of fuels or the potential energy of water at high levels is, by the use of a prime mover, converted or manufactured into mechanical energy and the mechanical energy converted or manufactured by the use of electric generators into electrical energy and the electrical energy transmitted over wires to the point where the mechanical energy is needed. The electrical energy is then converted into mechanical energy by the use of electric motors.

There are many instances, however, in present day engineering where mechanical energy is transmitted long distances through rods. In such cases, through the medium of internal combustion engines, usually gas or gasoline [fol. 108] engines, heat energy is manufactured into mechanical energy. This mechanical energy is transmitted through rods for long distances where it is finally used to operate pumps, compressors, and other mechanical units that require mechanical energy for operation. A good example of this is in the oil fields in Caddo Parish, Louisiana. In said fields, where oil companies own numerous wells which require pumping, and which wells do not flow of their own accord, the company will, at some central location, establish an internal combustion gas engine unit operating on the same principle as the internal combustion gas engine units owned and operated by the Arkansas-Louisiana Pipeline Company at the "Munce Compressor Station". Through the medium of this internal combustion

engine unit, heat energy is converted into mechanical energy. The mechanical energy, manufactured by the engine, is then transmitted, from the point of power take-off of the engine, first from the engine to a large wheel and from said large wheel to several long rods which are connected to pumping units at the oil wells. These pumping units are often located as far as one-half mile from the engine manufacturing the mechanical power. Many wells can thus be pumped by the mechanical power manufactured by one internal combustion engine.

The point I am making is that the method of operation at the "Munce Compressor Station" is similar to the operation in the Caddo field, above referred to. While the mechanical energy or power is not transmitted in exactly the same manner, the medium of transmission in each case is rods and the principle involved is identical. In other words, the internal combustion gas engine unit, technically known as the prime mover, which is permanently fixed to concrete at the "Munce Compressor Station", manufactures and generates mechanical power by changing heat energy into mechanical energy. Said mechanical energy or power is, through the medium of rods, transmitted or carried to the [fol. 109] compressor unit, and operates said compressor unit. The compressor unit could be at a point a far distance from the internal combustion gas engine unit, and under such condition the transmission rods would necessarily have to be of sufficient length to reach the compressor, or the same power, or mechanical energy, could be used to operate several compressor units, or a pump, or any other machinery requiring mechanical power or energy.

If the internal combustion gas engine unit, known as the prime mover, was situated in Louisiana, and bolted down to concrete in Louisiana, say for example, at the "Munce Compressor Station", and the compressor unit was situated in the State of Mississippi or Alabama, and through a medium of rods, the mechanical energy and power generated and manufactured by the internal combustion gas engine unit, was transmitted and conveyed to said compressors located in Mississippi or Alabama, the transmission of said mechanical energy or power through the rods would be across the State lines and would be interstate commerce. The generation or manufacturing of the mechanical energy or power, however, would be local in character. In other

words, the same situation would exist, in principle, as if the internal combustion gas engine units were connected to electric generators, which generated electrical energy and said electrical energy was transmitted through a system of wires to the States of Mississippi or Alabama and used by an electric motor to operate a compressor.

The mechanical energy or power generated and manufactured by the internal combustion gas engine units at the "Munce Compressor Station" could very readily and very easily be used to operate an electric generator instead of a compressor, by merely attaching a generator where it could utilize the mechanical energy or power rather than the compressor. Then, the situation would be that heat energy is manufactured into another product, namely, mechanical energy or power, and this product would, in turn, be manu- [fol. 110] factured into electrical energy.

The manufacture and generation of mechanical power is one thing, and the consumption or use of that power is another, and the transmission of that mechanical energy or power to the point of consumption is a thing distinct from its manufacture or generation and its consumption. In other words, at the "Munce Compressor Station" there is, first, the manufacture or generation of mechanical power. The next step is its transmission, and the next step is its consumption or use. These three steps are entirely separate and distinct, and have no connection other than, before the mechanical energy or power is transmitted, it must be manufactured or generated, and before it can be consumed or used, it must be manufactured or generated, and transmitted from its place of manufacture or generation to the place where it is to be utilized.

Attached hereto and made a part hereof, marked Exhibit "B", for the purpose of identification, is a copy of a map furnished me by the Arkansas-Louisiana Pipeline Company. Said map shows the field-gathering lines which connect with the gas wells owned by the Arkansas-Louisiana Pipeline Company, which are used for the purpose of gathering the gas from the place of severance from the ground, and collecting it and carrying it to the site of the "Munce Compressor Station". Also, shown on said map, in symbols, are the Munce Compressor Station, the Separators, the Cooler, Check Meter and other equipment referred to herein, as well as the terminus of the 20-Inch main pipeline into which the

gas is loaded and is started on its interstate journey to Texas and Arkansas.

Shown on said map are the field-gathering lines in the Monroe and Richland Gas fields, connected to wells owned by the Arkansas-Louisiana Pipeline Company. This system of gathering lines is made up of small lines leading out [fol. 111] to the various wells owned by said complainant, and is the means by which the gas is gathered up and carried to the edge of the producing properties, where it is treated, measured, compressed, and loaded into the interstate carrier, as described elsewhere in this affidavit.

As explained in the affidavit of W. H. Buckley, introduced by complainant as evidence in the preliminary hearing in this cause, the operation of the compressor units at the Munce Compressor Station are necessary from the viewpoint of the production of the gas from wells, and the utilization of the allowable production of such wells, as fixed by the Louisiana Department of Conservation, for the following reasons:

Some of the wells delivering gas into the field-gathering lines have lower pressure than others, and were all of the wells allowed to flow under their own pressure into the field-gathering lines, the low pressure wells would not be able to produce, and by use of the compressor units, which draws the gas out of the field-gathering lines, the pressure in the field-gathering lines is lowered to such an extent that all of the wells can be regulated to produce their allowable production, as fixed by the Louisiana Department of Conservation.

At the points marked "Terminus of other Field Gathering Lines", on said map, are connected similar field-gathering lines which deliver gas purchased by the Arkansas-Louisiana Pipeline Company from owners of other wells. These other field-gathering lines, although not shown on said map, perform the same function as the lines of the Arkansas-Louisiana Pipeline Company, that is, they gather the gas from the various oil wells and deliver the gas to a central point on the edge of the gas producing properties, where it is treated, metered, compressed, cooled, check metered and loaded into the interstate carrier.

After the gas has been gathered by the field-gathering lines and delivered to the central point on the edge of the producing properties, which is called the Munce Compressor

Station, it then passes through the metering stations at said central point, and is metered. The gas belonging to complainant, produced from complainant's wells, and gathered [fol. 112] into complainant's field-gathering system, and brought to said central point, known as the "Munce Compressor Station", is metered at said central point in order that complainant might know the amount of gas that is delivered into the interstate main at the central point, produced by complainant's wells. The other field-gathering systems, owned by other companies, which gather gas from wells owned by such other companies and delivered to said central point, is metered at said central point for the purpose of determining the amount of money due said companies by the Arkansas-Louisiana Pipeline Company for the gas purchased. This gas purchased from other companies, at the central point marked "Munce Metering Station" on said map, after it is gathered from the wells in said system of feeder or gathering lines, is supposed to be merchantable gas, that is, it should contain no water or gasoline in either liquid or vaporous state, but this gas does contain this water and natural gasoline, and in such condition is not merchantable. At the point marked "Separator", on said map, prior to the passage of the gas through the meters at the point marked "Munce Metering Station", on said map, are found separators, used for the purpose of removing this water and natural gasoline. Only one of these separators is shown on said map and marked "Separator." However, at the time I visited the plant, called the "Munce Compressor Station", I was shown such a separator installed in each field-gathering line leading to the metering station, by the Superintendent in charge of the Munce Compressor Station. These separators were installed some fifteen or twenty feet from the meters, marked "Munce Metering Station" on said map. These separators are so constructed so as to retard the velocity of flow of the gas, and consist of a large steel vessel, in some cases, equipped with "Baffles". The gas enters the vessel about half-way up from the bottom and leaves at the top, and because of the large size of the vessel, as compared to the line in which the gas enters, the velocity of flow of the gas is greatly diminished, and it is this diminution in the velocity of the flow of the gas, which [fol. 113] causes the water and natural gasoline vapor contained in the gas, to settle to the bottom of the vessel or

separator, where it can be blown out when a sufficient quantity has accumulated. This is the first step taken at the "Munce Compressor Station" to change the unmerchantable gas to merchantable gas.

The gas, after passing through the metering station, shown on said map, enters the three large lines, shown on said map as "Lines Connecting Metering Station With Headers", and from these lines the gas goes into two lines marked "Headers" on said map. The gas, in entering the "Headers" again has its velocity or flow retarded, and more water and natural gasoline settles to the bottom of the Headers, where it can be blown out. This is the second step taken by the complainant at the "Munce Compressor Station" to change the gas from an unmerchantable product to a merchantable product. After leaving the "Headers", the gas reaches the compressor units, shown on said map as the "Munce Compressor Station". The action of the compressor units in compressing the gas raises its temperature from about 78 Degrees to 225 Degrees F. The hot gas, upon leaving the compressor units, flows to the unit marked, "Coolers" on said map, where the temperature of the gas is reduced from 225 Degrees to about 80 Degrees F. It is necessary that the temperature of this gas be reduced for the following reasons:

1. To reduce the velocity of the gas, thereby making it possible to load a larger volume of gas into the 20-Inch interstate line. (Charles Law states that with constant pressure, the volume of a gas varies with its absolute temperature).

2. The preventing of the hot gases from corroding the pipe line.

3. To prevent the hot gases from melting the insulation on the outside of the pipeline.

4. By cooling the gas to prevent expanding and contract-[fol. 114] ing of the main pipe line, thereby eliminating danger of the line breaking or causing leaks.

5. To further condense and remove the water vapor and natural gasoline contained in the gas, which is another step in an effort to make the gas merchantable.

After leaving the Coolers, the gas then passes through a Scrubber located just ahead of the unit marker, "Check Meter" on said map, which Scrubber removes the remaining

water and natural gasoline from the gas. The installation of this Scrubber was found necessary because the other processes named herein were not removing all of the water and natural gasoline from the gas. The gas then passes through the unit marked, "Check Meter" on said map, where the quantity to be loaded into the main pipe line is measured. After being measured in the Check Meter, the gas is then loaded into the main 20-Inch pipeline, marked "Main 20-Inch pipeline" on said map.

Thus, we find a very intricate system of field-gathering lines, metering stations, Separators, Headers, Cooling towers, Check Meters and Scrubbers, through which the gas handled by the Arkansas-Louisiana Pipeline Company must pass before it is finally loaded into the main 20-Inch interstate line by the compressor units for transportation into Texas and Arkansas.

The term "Munce Compressor Station" which is used by the Arkansas-Louisiana Pipeline Company to refer to its properties at Sterlington, Louisiana, and which term I naturally used herein, is a "misnomer" because at this plant are done more things than the mere compressing of natural gas. First, by the action of these compressor units, gas wells, which would normally not be able to produce the quantity of gas allotted each well by the Louisiana Department of Conservation, are made to produce their maximum allotment. Second, gas which would otherwise be unmerchantable is made merchantable by the use of compressor units coupled with separators, cooling system and scrub-
[fol. 115] bers. Third, by the use of internal combustion gas engine units, the Arkansas-Louisiana Pipeline Company is manufacturing mechanical power or energy, a product having a distinct commercial value. And fourth, by the use of transmission units, mechanical power or energy is transmitted to its place of consumption.

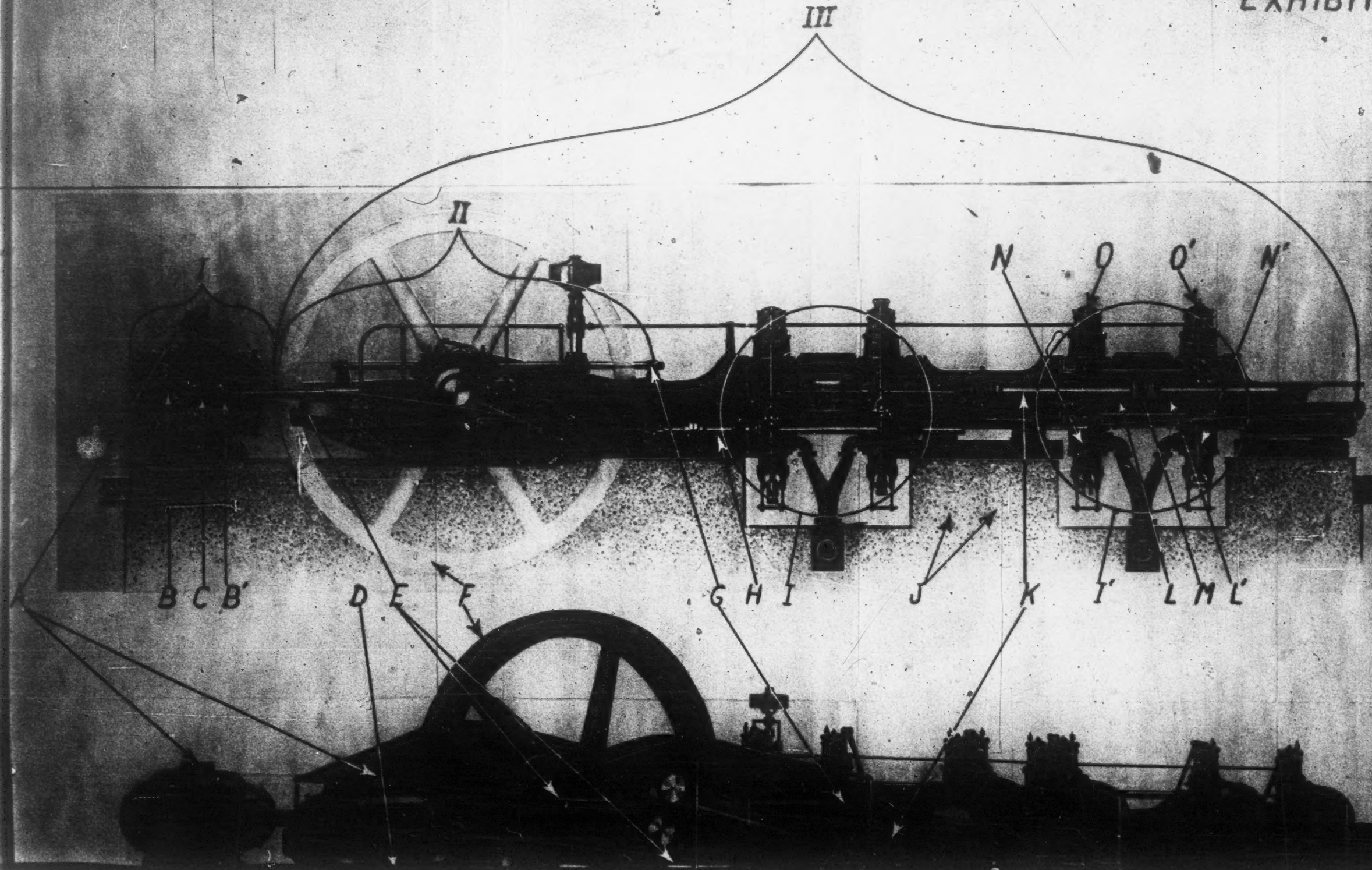
Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

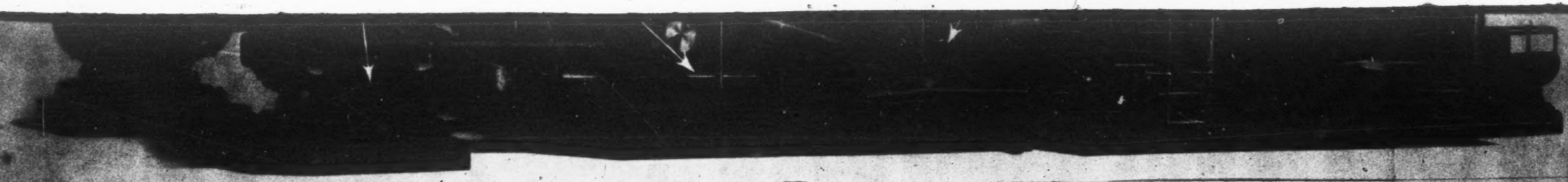
A. B. Singletary, Jr.

Sworn to and subscribed before me, Notary, on this the 15th day of May, 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

EXHIBIT "A"





I COMPRESSOR UNIT

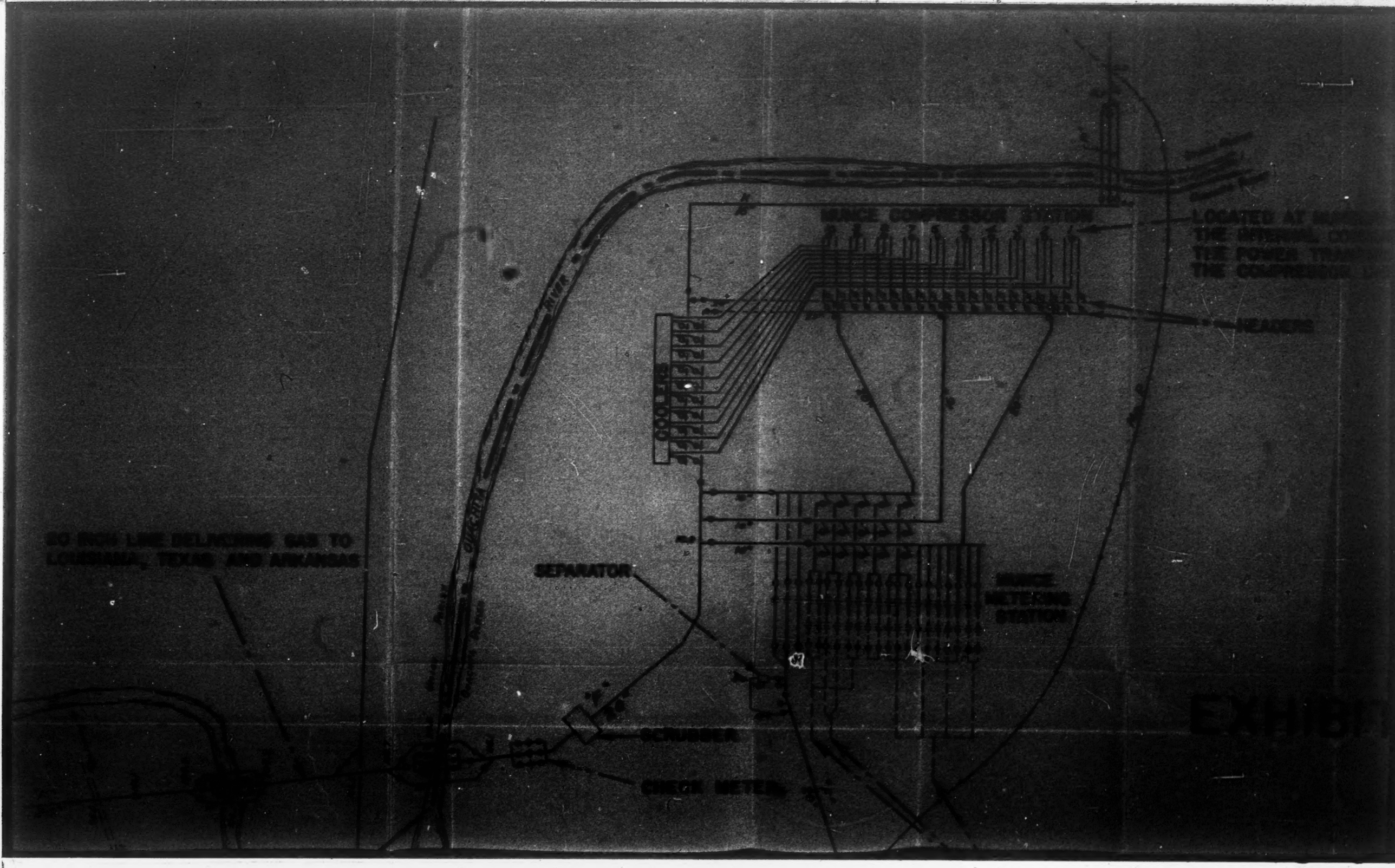
A- Gas Intake (Suction)
B- Compressor Cylinder
B'- "
C- Compressor Piston
D- Gas Outlet (Discharge)

II TRANSMISSION UNIT

E- Transmission Rods

III INTERNAL COMBUSTION GAS ENGINE UNIT

F- Flywheel
G- Power Take-Off
H- Foundation Bolt
I- Engine Cylinder
I'- "
J- Concrete Foundation
K- Piston Rod
L- Combustion Chamber
L'- "
M- Engine Piston
N- Exhaust Valve
N'- "
O- Intake Valve
O'- "

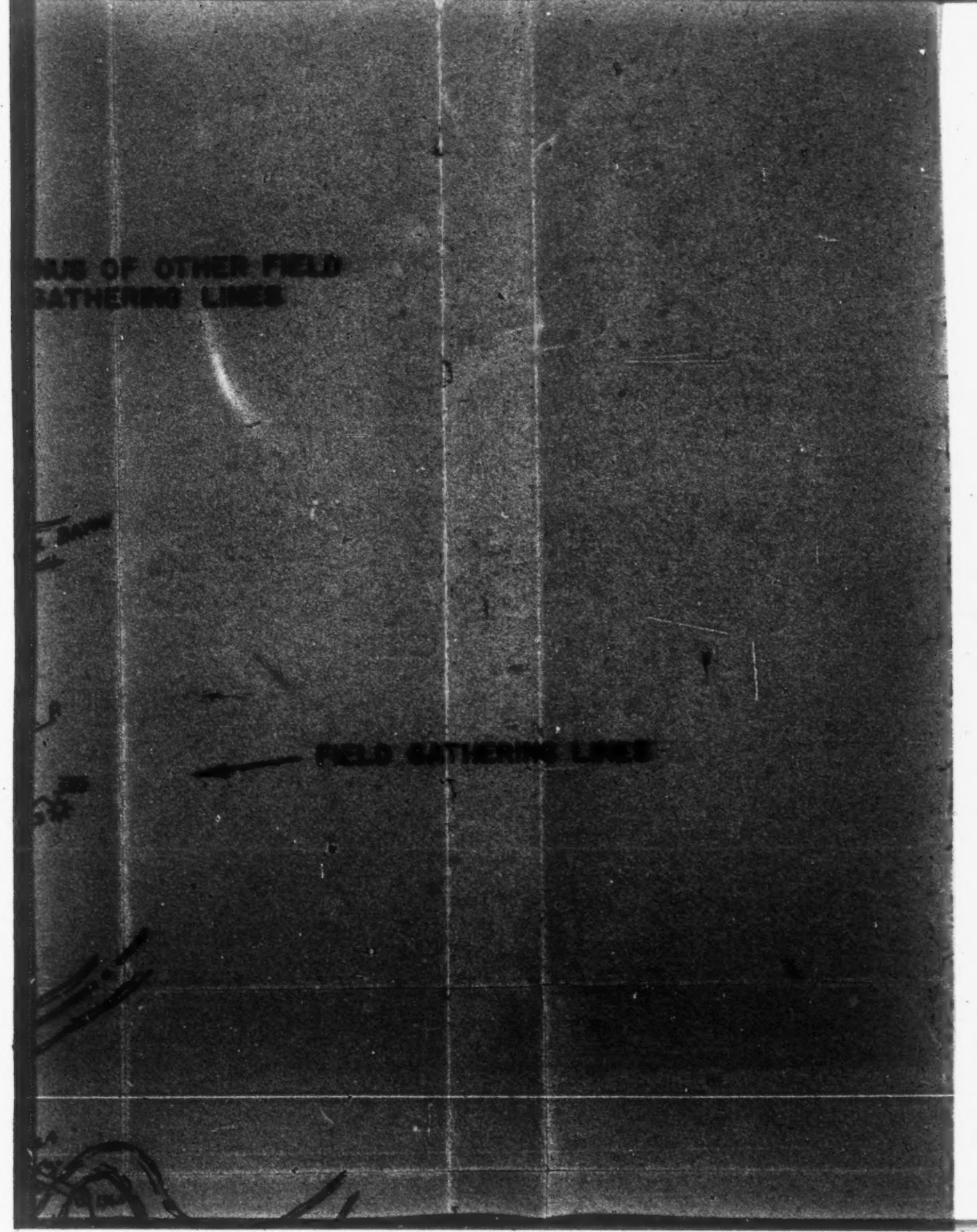

SEPARATOR
SCRUBBER
CHECK METER

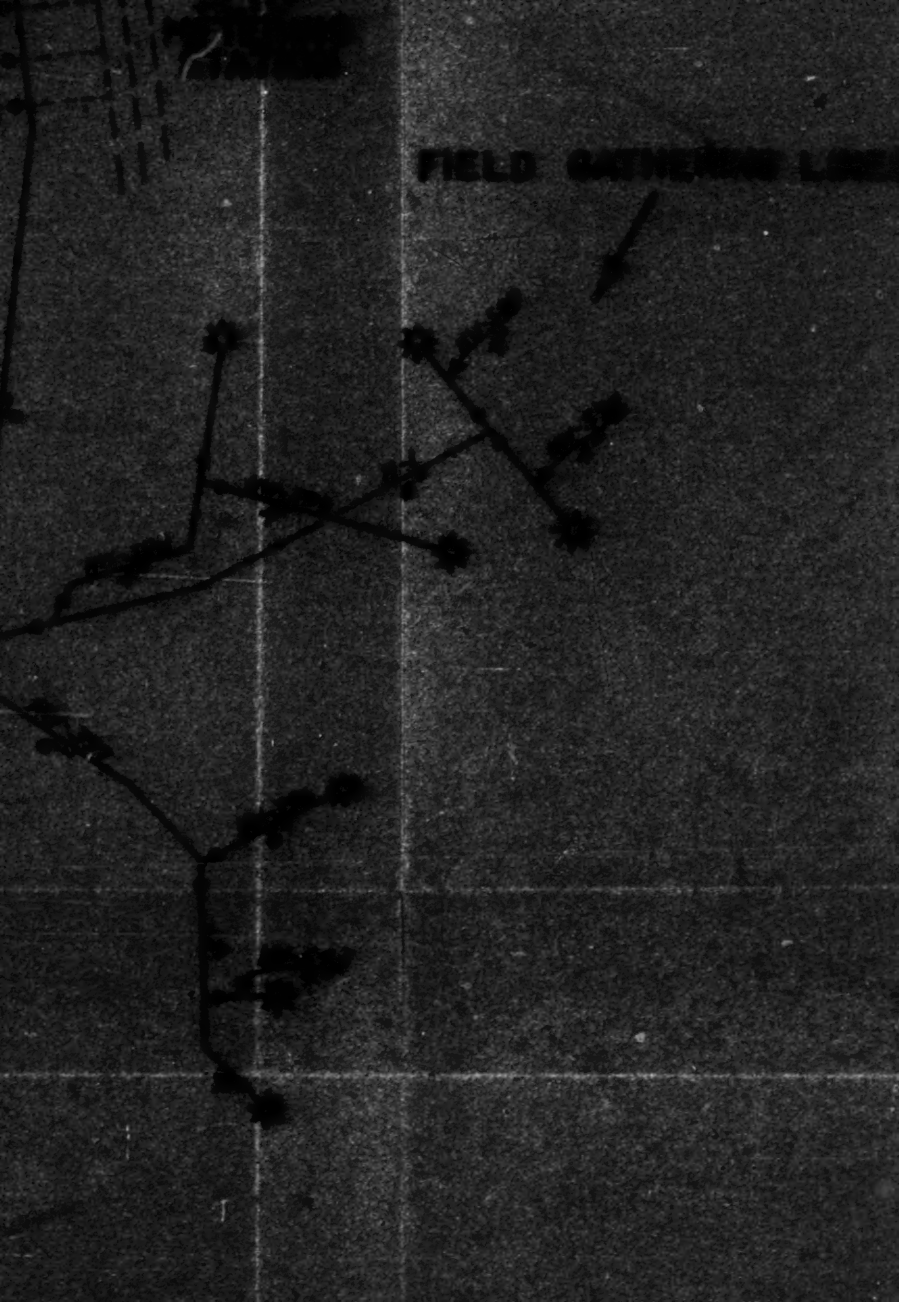
LOCATED AT NUMBERS 1 THRU 12, AVE. I,
THE INTERNAL COMBUSTION GAS ENGINE UNITS,
THE POWER TRANSMISSION UNITS,
THE COMPRESSOR UNITS.

HEADERS

EXHIBIT "B"


CHECK METER
FIELD GATHERING LINES
TERMINUS OF GATHER
MONROE


OF OTHER FIELD
GATHERING LINES
FIELD GATHERING LINES



[fol. 118] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF A. B. SINGLETARY, JR.—Filed February 12, 1937

Before me, the undersigned authority personally came and appeared A. B. Singletary, Jr., who, after being duly sworn, did depose and say:

That he is the same A. B. Singletary, Jr., who executed the affidavit filed in the above entitled and numbered cause, which affidavit was executed before W. A. Cooper, Notary Public in and for the Parish of East Baton Rouge, Louisiana, on the 15th day of May, 1936.

That he is familiar with the operation of the Ten (10) four cylinder Cooper Bessemer Internal Combustion engines owned and operated by the Arkansas-Louisiana Pipe Line Company, Complainant herein, at its Munce Station, referred to in this litigation, and is also familiar with the operation of the two (2) electric generators propelled by gas burning Internal Combustion engines used to furnish electrical energy for lighting the buildings at the said Munce Station, and that none of said equipment and machinery is stand-by equipment; that all of said equipment is operated approximately the same number of hours per year, and none of it is owned and operated as stand-by equipment, by Complainant herein; that none of said equipment is used only in case of emergency; that all of said equipment is used in manufacturing mechanical power and is used approximately the same number of hours per year, as is shown by the tes-
[fol. 119] timony of Complainant's witnesses.

Affiant further states that he is in direct charge of the administration of the provisions of Act 6 of 1932, as amended, and Act 25 of the Second Extra Session of 1935, as amended by Act 5 of the Fourth Extra Session of 1935, and that it has been the universal policy in administering said Statute to allow exemptions from the tax on the ground that the equipment is stand-by equipment only in such cases that the equipment is maintained and used solely and only in the case of failure of the equipment ordinarily used to manufacture power used in the business.

The statements made herein are within the personal knowledge of affiant.

(Sgd.) A. B. Singletary, Jr., Affiant.

Sworn to and subscribed before me, Notary, on this 8 day of December, 1936. P. W. Dupuy, Notary Public, in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 120] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF A. B. SINGLETARY, JR.—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared A. B. Singletary, Jr., who, after being duly sworn, did depose and say:

That he is the same A. B. Singletary, Jr., who executed, on May 15, 1936, an affidavit in the above numbered and entitled cause, before W. A. Cooper, Notary Public, in and for the Parish of East Baton Rouge, Louisiana, and that he is the same A. B. Singletary, Jr., who executed a supplemental affidavit in the above entitled and numbered cause on the 8th day of December, 1936, before P. A. Dupuy, Notary Public in and for the Parish of East Baton Rouge, State of Louisiana.

Affiant further states that the internal combustion gas engine unit, the transmission unit, and the compressor unit, as shown in Exhibit "A", attached to and made part of his affidavit executed on the 15th day of May, 1936, referred to above, are the same in principal, and are in every respect similar to the internal combustion gas engine units, transmission units, and compressor units, located at the Munce Compressor Station, involved herein, with the exception that the internal combustion gas engine units, transmission units, and the compressor units at the Munce Station are larger, and the horse power rating or horse power capacity [fol. 121] of the internal combustion gas engine units at the Munce Station is greater than the horse power capacity of the internal combustion gas engine unit shown in Exhibit

"A". The transmission of mechanical energy is identical at the said Munce Station with the Exhibit shown in Exhibit "A", and the compressor units are identical at the Munce Station with the compressor unit shown in Exhibit "A", with the exceptions herein above referred to, that is, all three separate and distinct units are larger at the Munce Station than the three separate and distinct units shown in Exhibit "A" attached to affiant's affidavit.

Affiant has read the affidavit of T. W. Johnson, dated December 18, 1936, witness for complainant, wherein the said Johnson makes the following statement:

"* * * that the compressors described and employed at the Munce Compressor Station form an integral part of the pipe line through which natural gas is transported, and the engines used in connection with such compressors are used solely and only to facilitate the movement of natural gas through the pipe lines."

Affiant shows that the compressor unit, marked unit No. "1", on Exhibit "A", is not an integral part of the pipe line, and is used not only to compress the gas and load it into complainant's twenty-inch main at the Munce Station, but is used for other purposes as set out in affiant's original affidavit. The internal combustion gas engine unit, marked internal combustion gas engine unit No. "3" on Exhibit "A", is used solely and only for the purpose of manufacturing mechanical energy by converting heat energy contained in natural gas into mechanical energy, which mechanical energy, in turn, is transmitted to the point of use through the medium of transmission rods, marked transmission unit on Exhibit "A", to the compressor unit, the point of consumption of the mechanical energy.

[fol. 122] The said Johnson further states that:

"Because of the physical design, assembly and type of equipment employed, the energy created by the operation of the engines in use is not susceptible of transmission over any considerable distance and can be used only for the purposes intended or the transmission of the natural gas transported, through the lines of which the compressors form an integral part and the energy created for these reasons cannot be considered to have any commercial value independently of the operation described."

Affiant further states that mechanical energy, after it has been manufactured, is capable of transmission for great distances, and in many cases, is so transmitted.

Affiant further states that mechanical energy is a distinct article of commerce, capable of measurement and sale, and is, at times, measured and sold; affiant further states that the mechanical energy manufactured by the internal combustion gas engine units at the said Munce Station has a commercial value independent of the operation of the compressor units which use said power, just as would the manufacture of electrical energy; in each case, transmission being required to transmit the energy, whether it be mechanical or electrical, to the point of use or consumption.

The said Johnson further states:

"In the operation of compressor units such as those described, no power is generated in the compressor unit except that required to overcome frictional resistance in the unit itself until gas is admitted to the compressor cylinder."

The statement of said Johnson, quoted above, is incorrect. No power is generated in the compressor unit. The compressor unit consumes the mechanical power manufactured by the internal combustion gas engine unit and transmitted to it by said transmission unit. It is elementary that the compressor units do not generate power, but on the contrary, consume power.

[fol. 123] Affiant further shows that H. T. Goss, witness for complainant, in his affidavit, executed on December 18, 1936, stated:

"Compressor units installed in the Munce Compressor Station of the Arkansas Louisiana Pipeline Company are known as 1000 HP. Cooper, twin tandem, double acting, gas engine compressor units. Mechanically speaking, each is an integral unit due to the physical design and assembly and as such could be used for no purpose other than that originally intended, namely, to assist in the movement of natural gas through pipe lines."

Affiant further states that for the reason set forth in this affidavit and in his original affidavit, the statement of the said H. T. Goss quoted above is erroneous. Mechanically speaking, three separate and distinct units make up the equipment as shown in Exhibit "A", of affiant's original

affidavit, and these three separate and distinct units do not constitute an integral unit; that the mechanical energy manufactured by the Internal Combustion Gas Engines at the Munce Station can be used to operate any unit requiring mechanical power. It so happens that at the Munce Station, the mechanical power is used to operate compressors.

Affiant further shows that the said H. T. Goss, in said affidavit executed December 18, 1936, makes the following statement:

"The energy created due to the physical design, assembly and type of equipment is not susceptible to transmission over considerable distances and can be used only for the purpose originally intended, namely, to assist in the movement of natural gas through the transmission lines, connected to the compressor cylinder."

This statement by said Goss is not accurate for the reason set forth in this supplementary affidavit and in affiant's original affidavit. Mechanical energy is susceptible of transmission over considerable distances, and is frequently [fol. 124] transmitted over considerable distances as is shown by the records in this case.

Affiant further states that the said H. T. Goss makes the following statement:

"The power required for such compression can be determined by generally accepted formulae. Under the theory involved in such determination it is apparent that no power is generated in the compressor unit except that required to overcome frictional resistance in the compressor unit itself, until or unless gas is admitted to the compressor cylinder and compressed. Therefore, the power is consumed in the actual movement of the gas in the compressor cylinder, causing a corresponding movement in the pipe line, with the result that the power is generated and used solely in accomplishing the movement of gas in the pipe lines, which movement to the required degree would be impossible without such power."

Affiant shows that said statement is inaccurate and is not sound from an engineering standpoint. No power whatever is generated in compressor units, marked such, in Exhibit

"A", of affiant's original affidavit. Power is consumed by the compressor units.

A. B. Singletary, Jr., Assistant.

Sworn to and subscribed, before me, this 19 day of January, 1937. W. A. Cooper, Notary Public. (Seal.)

[File endorsement omitted.]

[fol. 125] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF G. F. MATTHES—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared G. F. Matthes, who, after being duly sworn, did depose and say;

I am a resident of Baton Rouge, East Baton Rouge Parish, Louisiana. I graduated from the School of Engineering of Tufts College in 1922, majoring in mechanical engineering. I have also taken work and pursued studies in engineering at the Massachusetts Institute of Technology. Since 1922, I have been engaged in engineering work, which work has included the design, construction and operation of mechanical plants and power equipment. Also, during the past four years, I have held the position of Assistant Professor in the College of Engineering at the Louisiana State University.

I have read and carefully examined the affidavit prepared by A. B. Singletary, Jr., to be filed in evidence in the above entitled and numbered cause, pertaining to the plant commonly called the "Munce Compressor Station" of the Arkansas-Louisiana Pipe Line Company located at Ster-[fol. 126] lington, Louisiana. I have also carefully examined and studied the photograph attached to said affidavit executed by the said A. B. Singletary, Jr., and marked "Exhibit A", for the purpose of identification, which photograph shows equipment similar to that located at the said Munce Station.

The detailed analysis made of the equipment shown in said photograph attached to said affidavit executed by the said A. B. Singletary, Jr., is correct.

Mechanically, the equipment shown in said photograph attached to said affidavit executed by the said A. B. Singletary, Jr., and marked "Exhibit A" for the purpose of identification, is composed and made up of three separate and distinct units, each of said units performing a separate and distinct purpose, and being entirely separate and distinct from each other insofar as duties and functions are concerned. These three separate and distinct units making up the equipment shown in said photograph attached to said affidavit and marked "Exhibit A" for the purpose of identification are, first, as shown by Roman Numeral I on said Exhibit, the compressor unit. The second separate, distinct and individual unit, is marked by Roman Numeral II, and is known as the transmission unit. The third separate and distinct unit is marked in said Exhibit by Roman Numeral III, and is the internal combustion gas engine unit.

The compressor unit, marked Roman Numeral I on said Exhibit, performs a dual purpose. It draws gas from the nearby wells through a system of feeder lines in the gas fields, and after drawing the gas from the wells through said system of feeder lines, compresses it and changes the condition of the gas from one pressure to a higher pressure, building up the pressure so that the gas may be delivered into the main pipe line, and, after having been built up in pressure, moves into the pipe line when withdrawals are made at the opposite end of the line.

[fol. 127] The second separate and distinct unit, marked by Roman Numeral II on "Exhibit A", attached to said affidavit is the power transmission unit. This unit simply connects the unit marked Roman Numeral III in said Exhibit, which unit manufactures and generates mechanical power, with unit marked Roman Numeral I, the compressor unit, which unit uses the mechanical power. It is through the medium of the transmission rods that the mechanical power, after being manufactured by the internal combustion gas engine unit marked Roman Numeral III on said Exhibit, is transmitted to the compressor unit, marked Roman Numeral I on said Exhibit. The said internal combustion gas engine unit transforms heat energy into mechanical energy, which is a manufacturing process. The mechanical energy thus manufactured by the internal combustion gas engine is a new commercial product.

In the equipment appearing in said photograph, this product that is manufactured by the internal combustion gas engine unit is carried or transmitted through the medium of the rods and is consumed or used by said compressor unit. Mechanical power or energy is necessary to the operation of said compressor unit.

The three most common methods of manufacturing mechanical energy to operate compressor units are, first, the method used at the Munce Station, namely, manufacturing and generating mechanical energy by the changing of heat energy into mechanical energy by the use of internal combustion gas engine units. The second most common method is by the use of electricity, whereby electrical energy is changed or manufactured into mechanical energy by means of an electric motor. The third most common method is by the use of steam whereby the heat energy of steam is changed or manufactured into mechanical energy by means of a steam engine.

[fol. 128] By the use of any of the methods of generating and manufacturing mechanical energy, a new and distinct form of energy results in each case from a manufacturing process; that is, changing one type of energy into another, and in each case a new commercial product is produced or manufactured, which is capable of transmission and use in industry.

With the equipment appearing in said photograph, the Arkansas-Louisiana Pipe Line Company is doing three things; first, by the use of the internal combustion gas engine unit, marked Roman Numeral III, it is changing heat energy furnished by the natural gas used as fuel, into mechanical energy, which is manufacturing. Second, by the use of the transmission unit, marked Roman Numeral II, it is transmitting said mechanical energy, after said mechanical energy has been produced or manufactured. The third accomplishment is the use of that mechanical energy after it has been manufactured and transmitted.

While said photograph shows the three separate and distinct units, namely, the manufacturing unit, the compressor unit, and the transmission unit, in close proximity, still the principles, mechanically, scientifically, and practically speaking, are identical, and are the same, as would be involved if the internal combustion gas engine unit was at some distance from the compressor unit which uses the energy. If the compressor unit and the internal combustion

gas engine unit were, say, for example, a half mile apart, each respective unit would function in the same manner as it does when they are situated in close proximity. In both cases, whether the manufacturing unit and the unit which uses the power are in close proximity or at distant points, they are connected by the transmission unit. The only difference in the equipment would be the length of the transmission rods, it being necessary, of course, that the trans- [fol. 129] mission rods be of sufficient length to connect the manufacturing unit and the unit which uses the power, whether the units be in close proximity or at distant points.

The equipment shown in said photograph is permanently affixed to a concrete foundation, and has a permanent situs at the Munce Station. All three units shown in said photograph, that is, the power manufacturing unit, the compressor unit, and the transmission unit, are affixed to the same concrete foundation, and are in close proximity, for the reason that this arrangement is much more convenient from the standpoint of manufacturing mechanical power, its transmission and use, than to have the units marked Roman Numerals I and III widely separated and connected by a long transmission unit, such as is commonly found in oil fields where one internal combustion gas engine unit manufactures mechanical power which is used to pump numerous wells, in which case the mechanical power manufactured by the internal combustion gas engine unit is transmitted great distances through the medium of transmission rods.

Mechanical power, such as is manufactured by the internal combustion gas engine unit shown in said photograph could be transmitted to the compressor unit which uses it by belting, chains, shafting, ropes, etc.

I have read the decision rendered by the Supreme Court of the United States in the case of the Utah Power & Light Company v. Pfost, 52 S. Ct. 548, 286 U. S. 165, and have carefully studied the facts involved in that litigation. The generation and manufacture of electrical energy by harnessing the waterfall in Utah and compelling it to operate the turbines, thereby changing potential energy into mechanical energy, and the mechanical energy into electrical energy by the use of generators, and the transmission of the electrical energy over transmission lines into other [fol. 130] states, involves the necessity of building up sufficient voltage at the point of manufacture to cause the

electrical energy to flow of its own accord over the transmission lines. Scientifically speaking, it is a fact that unless the generators operated by the turbines at the falls in the Utah case, assisted by transformers build up a sufficiently high voltage, the electrical energy would not of it own accord flow over the transmission lines for any distance in sufficient quantity to make it commercially profitable. Similarly, it is necessary that the pressure of gas be built up before the gas can be delivered into the main high pressure pipeline. It is the pressure thus created that causes the gas to move in the main pipeline of its own accord.

The term "voltage" as applied to electrical energy, is that property of the electrical energy that is comparable to pressure of gas or water that causes the gas or water to move of its own accord. Amperes, as applied to electrical energy, is the volume. In the Pfost case, the generators operated by the turbines had to be designed and properly adjusted so that at the time the mechanical energy was manufactured into the electrical energy, the voltage of the newly manufactured product, namely, electrical energy, had to be sufficiently high to cause the flow of the electrical energy over the transmission lines.

Electrical energy in sufficient quantities to supply the commercial demand in the states served by the plant in Utah could be manufactured by the generators, but if the generators and transmission equipment were not so designed and properly adjusted whereby the voltage of the electrical energy was sufficiently high to cause the flow of the electrical energy over the transmission lines, the volume of electrical energy would be available at the plant in Utah, but would not flow over the transmission lines.

In other words, injecting into the electrical energy so manufactured, at the time it is generated or manufactured, the ingredient which causes it to flow over the transmission lines is made a part of the manufactured or generated [fol. 131] product, and is comparable to the compression of gas.

The thing that causes gas to move through the main pipe line of the Arkansas-Louisiana Pipe Line Company from its Munce Plant at Sterlington to points in Texas and Arkansas, is the pressure built up in the line by the use of the compressor units which compress the gas and load it into said line. The thing that causes electrical energy

to flow over transmission lines, as involved in the Pfost case, is the injection into the electrical energy, at the time of its generation, sufficiently high voltage to cause it to flow over the transmission lines into the other states.

Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

George F. Matthes.

Sworn to and subscribed before me, Notary, on this the 15 day of May, 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 132] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF F. J. MECHLIN—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared F. J. Mechlin, who, after being duly sworn, did depose and say:

I am a resident of Baton Rouge, East Baton Rouge Parish, Louisiana. I graduated from Allegheny College, Meadville, Pa., in 1914 with a degree of Bachelor of Science. I also hold a Master of Science degree from Louisiana State University. My experience with internal combustion engines covers a period of thirty years. My first work in this line was between the years 1904 and 1908 as an employee of the Bessemer Gas Engine Company, with main offices and shops located at Grove City, Pa. The Bessemer Gas Engine Company was engaged in the development, manufacture and sale of gas engines, gas compressors, pumping powers and Deisel engines. This is the same concern now merged to form the Cooper-Bessemer Company that manufactured the internal combustion engines, transmission units, and compressors used by Complainant at their plant commonly called the "Munce Compressor Station". My work as an apprentice machinist covered a period of two years and gave an excellent opportunity to personally know the con-

struction and testing conditions for various products manufactured by the company. During the period mentioned, I [fol. 133] worked under Messrs. Mortgomery and Bartholomew, Shop Foremen, and Mr. John McCune, Plant Superintendent.

During the latter part of my employment term I operated a lathe on which I machined brass castings and rough steel blanks and finished these into a complete valve unit which was then installed in the "direct driven" gas compressor then being commercially developed by the Bessemer Gas Engine Company. After sets of compressor valves were finished by me they were turned over personally to Mr. McDougall, Chief Tester for the company, and under his immediate supervision they were placed into position and test runs made on the compressors. The writer had an opportunity to observe the behavior of a number of compressors of this type as they were manufactured and tested before shipment to customers.

Prior to the development of the "direct driven" unit shown in Exhibit A, it was customary to transmit power from a Bessemer gas engine (prime mover) to a gas compressor by means of belting. These belts were nothing more or less than devices used to transmit power from the "prime mover" to the power consuming unit. The length of the belt and consequently the distance from the "prime mover" to the power consuming unit could and did vary within rather wide limits.

Mr. H. A. Murray, then Chief Designing Engineer of the Bessemer Gas Engine Company, claimed that the "direct driven" engine compressor unit (the forerunner of the type shown in Exhibit A attached to the affidavit executed by A. B. Singletary Jr.,) would have a distinct advantage over the separate units described in the preceding paragraph. Manufacturing and sales experience since that time indicated that his claims were well founded.

I have read the affidavit by Mr. A. B. Singletary Jr., and I agree that the mechanical unit pictured in Exhibit A con- [fol. 134] sists of three parts, shown by Roman Numeral III; a gas engine which converts heat energy due to the combustion of natural gas (within the gas engine cylinder) into mechanical energy and causes pistons to be displaced, thereby causing shafts to move and flywheels to revolve. This newly created mechanical energy may be transmitted as such by belts, shafting and other means, to more or less

distant power-consuming units. In the illustration the power-transmitting unit is labelled Roman Numeral II. This merely transfers mechanical energy from the prime mover (gas engine) to the power consuming unit labelled Roman Numeral I (compressor). Though the assembly shown in Exhibit A is bolted to a common iron bedplate and set on a common concrete foundation, there are three distinct functions performed by three separate and distinct machine units:

III. Prime mover converting energy into mechanical energy. (gas engine)
II. Power transmitting unit.
I. Power consuming unit (compressor)

Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

F. J. Mechlin.

Sworn to and subscribed before me, Notary, on this the 16 day of November, 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 135] In United States District Court

[Title omitted]

Affidavit of Ellis P. Gaudet—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared Ellis P. Gaudet, who, after being duly sworn, did depose and say:

I am a resident of Port Allen, West Baton Rouge Parish, Louisiana. I graduated from the Louisiana State University in 1933, with a degree of Bachelor of Science, majoring in mechanical engineering. During the school term 1934-1935, I did graduate work in mechanical engineering at the Louisiana State University and taught mechanical engineering classes. My principal work in these classes was the conducting of tests of steam engines, steam pumps, gas

engines, etc. Since September 1935, I have been employed as an engineer by the Supervisor of Public Accounts for the State of Louisiana, and my work in this capacity has brought me in contact with all types of gas engines, compressors and the like, used in the various industries in Louisiana, including the oil and gas industries.

I have read and carefully examined the affidavit prepared by A. B. Singletary Jr., to be filed in evidence in the above entitled and numbered cause, pertaining to the plant commonly called the "Munce Compressor Station" of the Arkansas-Louisiana Pipe Line Company located at Sterlington, Louisiana.

[fol. 136] I have also carefully examined and studied the photographs attached to said affidavit and marked "Exhibit A", for the purpose of identification, which photograph shows equipment similar to that located at the said "Munce Compressor Station". I have also carefully studied the comparison made in said affidavit of the operation of certain oil properties in Caddo Parish, Louisiana, to the operation at the "Munce Compressor Station".

The detailed analysis made of the equipment shown in said photograph and the comparison made in said affidavit, are correct.

Every installation of an internal combustion gas engine driving a compressor, consists of three separate and distinct operations, namely; the generation or manufacture of mechanical energy or power by the internal combustion gas engine unit; the transmission of this mechanical energy or power from the point of power take-off of the internal combustion gas engine unit to the compressor unit, this transmission may be through one of several mediums such as, belts, chains, gears, shafts or rods; and third, the consumption or use of this mechanical energy by the compressor unit.

Attached hereto, and made a part hereof, marked "Exhibits 1, 2, 3, 4, 5, and 6, for the purpose of identification are actual photographs, taken by me, showing the operation of certain oil wells in one of the oil fields in Louisiana, where one internal combustion gas engine unit, through the medium of rods as transmission units, is used to pump as many as nine oil wells at one time, said oil wells being located as far as one-half mile from the power manufacturing internal combustion gas engine unit.

Exhibit 1, shows the North side of a building which is used exclusively to house one 90 horsepower internal com-
[fol. 137] bustion gas engine unit which unit is identical in principal of operation to the internal combustion gas engine units used by the Arkansas-Louisiana Pipe Line Company at its "Munce Compressor Station." This engine converts heat energy of natural gas used as fuel into mechanical energy or power just as do the internal combustion gas engine units operated by the Arkansas-Louisiana Pipe Line Company at its "Munce Compressor Station". Also shown on Exhibit 1, are five rods, all leading from the said internal combustion gas engine unit. These rods are used to transmit the mechanical energy manufactured by the 90 horsepower internal combustion gas engine unit, from said unit to pumping units located on five different oil wells. These rods perform the same function as do the transmission rods used by the Arkansas-Louisiana Pipe Line Company at its "Munce Compressor Station". This operation is identical in principal to the transmission of the mechanical energy at the "Munce Compressor Station", the only difference being that in this case the rods are many times the length of the rods at the "Munce Compressor Station".

Exhibit 2, shows the South side of the same building used exclusively to house one 90 horsepower internal combustion gas engine unit. On said Exhibit 2, are also shown four rods which lead from the same 90 horsepower internal combustion gas engine unit and transmit the mechanical energy manufactured by said internal combustion gas engine unit from same, to four other oil wells.

On Exhibit 3, is shown the same building used exclusively to house one 90 horsepower internal combustion gas engine unit as shown in Exhibits 1 and 2. Also shown on Exhibit 3, is one of the same five rods leading from the North side of said building. I have labelled this rod, "Transmission Rod". In addition to the building housing the internal combustion gas engine unit and the one transmission rod, Exhibit 3, also shows the pumping mechanism at one of the oil
[fol. 138] wells which is operated by the mechanical energy transmitted from the internal combustion gas engine unit through the transmission rod and used in pumping an oil well. In other words, Exhibit 3, shows the entire system on one well; the building housing the source of the mechanical energy, the internal combustion gas engine unit, the transmission rod, and the power consuming unit. This arrange-

ment is identical in principal to that of the manufacture, transmission and consumption of mechanical energy employed by the Arkansas-Louisiana Pipe Line Company at its "Munce Compressor Station".

Exhibit 4, gives another view of the same transmission rods leading from the North side of the building housing the 90 horsepower internal combustion gas engine unit, above described. In addition, in the back ground marked "Well", is shown another power consuming pumping unit located on another oil well. Also shown on this Exhibit 4, is a mechanism, which we have marked "A", which is used to change the direction of one of the transmission rods. Marked "B" on said Exhibit, is shown the same transmission rod that is shown on Exhibit 5.

Exhibit 5, gives another view of the same transmission rod, labelled "B" in Exhibit 4, and in the back ground on Exhibit 5, and marked "Well", is shown another well on which is located another power consuming, pumping unit. This Exhibit 5, clearly shows the long distance that mechanical energy can be transmitted through the medium of a rod.

These five Exhibits clearly show that mechanical energy can be, and is, transmitted great distances through the medium of rods as transmission units and that the generation or manufacture of mechanical energy through the use of an internal combustion gas engine unit, is an operation very distinct from the transmission or consumption of that mechanical energy.

As explained in the affidavit of A. B. Singletary Jr., me- [fol. 139] chanical energy manufactured by any internal combustion gas engine unit, such as the 90 horsepower engine above described or one of the engines used by the Arkansas-Louisiana Pipe Line Company at its "Munce Compressor Station", is a new and distinct product, of value commercially, and is capable of transmission and use in industry and can be used to operate any sort or type of unit requiring mechanical power.

In the same oil field in which the photographs above described were taken, there are several other oil companies operating other than the one owning and operating the 90 horsepower internal combustion gas engine unit, hereinabove described. These other companies could very easily buy mechanical power for the pumping of their wells from the company operating said 90 horsepower engine. The

only thing necessary would be to connect another transmission rod from the 90 horsepower engine to their well. If this were done, there would be the sale of mechanical energy, as such, for use in industry.

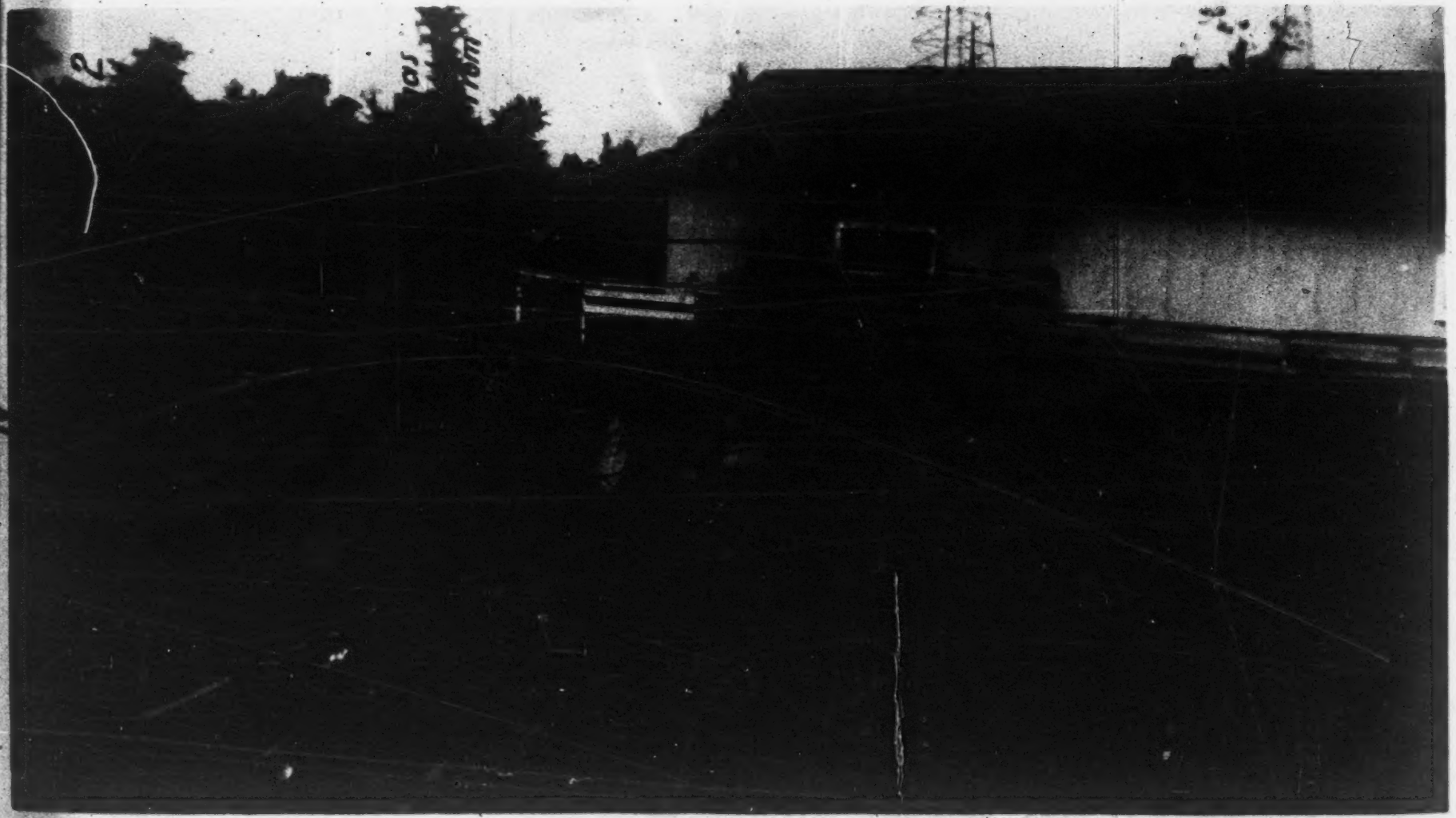
Deponent further says that the statements made in this affidavit are statements of fact which are within his personal knowledge.

E. P. Gaudet.

Sworn to and subscribed before me, Notary, on this the 19 day of November, 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

Exhibit 1



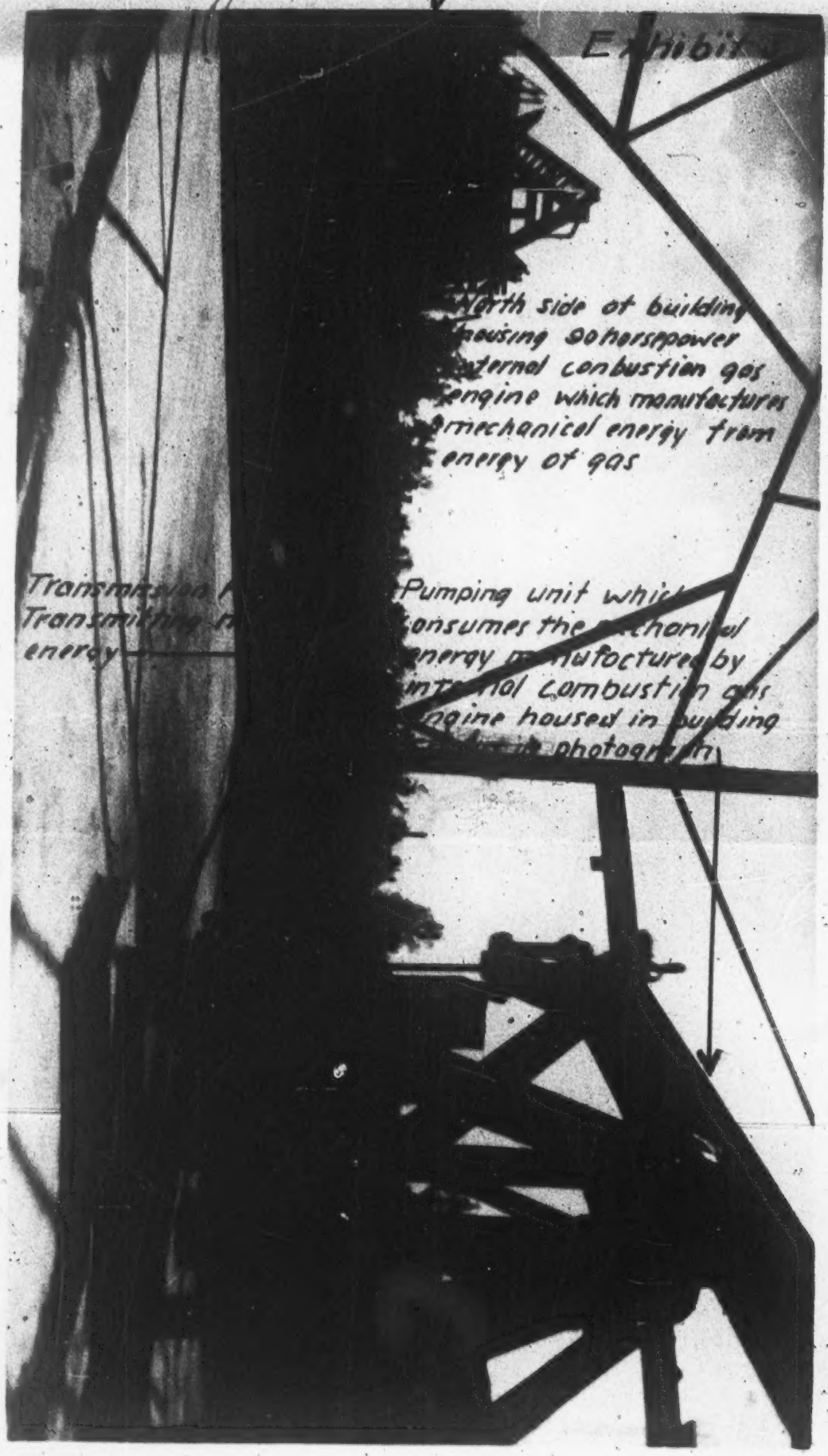


Exhibit
...rth side of building
...housing 90 horsepower
...ternal combustion gas
...engine which manufactures
...mechanical energy from
... energy of gas
Trans...
Transmitting ...
energy
...Pumping unit whi...
...consumes the ...chanical
...energy ...nufactured by
...internal combustion gas
...engine housed in building
... photograph

113

Exhibit 5

[fol. 145] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF HAMILTON JOHNSON—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared Hamilton Johnson, who, after being duly sworn, did depose and say:

I am a resident of Baton Rouge, East Baton Rouge Parish, Louisiana. I graduated from Rollins College in 1893, with the degree of Bachelor of Arts, from Vanderbilt University in 1896, with the degree of Bachelor or Engineering and after an additional year of graduate work at Vanderbilt received in 1897, the degree of Mechanical Engineer. I was engaged continuously in the active practice of the engineering profession for the next twenty-seven years, my work consisting largely of the design and installation of power plants of various kinds. I was for a number of years City Engineer of Jackson, Mississippi. From 1920-1923, I had charge of the design and supervision of the engineering features of the rehabilitation of all the State Institutions of Mississippi, carried out by the Mississippi State Bond Improvement Commission.

In 1923, I came to Baton Rouge, to handle the engineering problems involved in the construction of the new plant of the Louisiana State University. When this work was completed I was appointed head of the department of Mechanical Engineering in the Louisiana State University and have [fol. 146] occupied that position continuously since September, 1924. In that capacity I give instruction in machine design and also in the theory and design of internal combustion engines.

I have no personal knowledge of the equipment of the "Munce Compressor Station" of the Arkansas-Louisiana Pipe Line Company nor of the various operations carried on there, but I have carefully examined the affidavits to be filed in this case by A. B. Singletary, Jr., Benjamin C. Craft, G. F. Matthes and Ellis P. Gaudet, and the different exhibits accompanying them. If the equipment and method of operation or the compressor station are substantially as shown in those affidavits and exhibits, it is my opinion that the conclusions reached by the affiants as to the segre-

gation of the different elements of machinery according to the specific functions performed by each are thoroughly sound and fully justified by the facts set out in the affidavits.

In the formal study of machine design all machinery is divided into three classes:

1. Prime movers—machines which receive from some source in nature energy which is not of a kind suitable for useful work and transform this into the mechanical energy of moving solid bodies which may be applied to doing useful work. As examples of prime movers, we have steam boilers and engines and internal combustion engines which utilize the potential heat energy of fuel as their source of natural energy, windmills which utilize the kinetic energy of moving masses of air, water wheels which utilize the kinetic energy of moving masses of water, etc.

2. Machinery of transmission, machine elements adapted to receive mechanical energy from a prime mover and [fol. 147] transfer this energy to the place where it is to be used to do work. As examples, we have shafts, rods, belts and pulleys, gear wheels, etc., and in the case of electrical transmission of power a complex system consisting of the electric generator, transformers, wires and motor.

3. Machinery of application, machines adapted to receive the mechanical energy which has been brought to them and apply it to perform the specific work for which they were designed. Into this latter class, therefore, would fall all machines used to perform specific tasks such as machine tools, pumps, compressors, etc.

Wherever any task is performed by machines as distinguished from human or animal energy all three of these classes of machinery must necessarily be employed, and this is true whether the different units are widely separated or all assembled on a single foundation.

In the case under consideration, as pointed out in the affidavits above referred to, the gas engine is the prime mover, the rods leading from the cross-head of the engine to the compressor constitute the machinery of transmission, and the compressor itself is the machine of application which applies the mechanical energy transmitted to it from the prime mover to the specific task of drawing gas from

the wells and raising it to the higher pressure necessary for its economical transportation in pipes to a distance.

The transformation of potential heat energy into mechanical energy by the prime mover is, therefore, an entirely [fol. 148] distinct operation from the utilization of that mechanical energy by the compressor.

Hamilton Johnson, M. E.

Sworn to and subscribed before me, Notary, on this the 21 day of Nov., 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 149] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF BENJAMIN C. CRAFT—Filed February 12, 1937

Before me, the undersigned authority, personally came and appeared Benjamin C. Craft, who, after being duly sworn, did depose and say:

I am a resident of Baton Rouge, East Baton Rouge Parish, Louisiana. I graduated from the Leland Stanford University in 1929 with a degree of Engineer in Mines, specializing in Petroleum Engineering. I worked during the summer of 1929 for the Olympic Refining Company in California. From the Fall of 1929 to 1935, I held the chair of Assistant Professor of Petroleum Engineering at Louisiana State University. At present, I am Associate Professor of Petroleum Engineering at the above institution. During the summers of 1930 and 1931, I worked as a floorman for the Stovall Drilling Company in both the Richland and Monroe gas fields.

I have visited the plant commonly called the "Muncé Compressor Station" of the Arkansas-Louisiana Pipe Line Company, located at Sterlington, Louisiana, and have carefully examined all of the machinery and equipment situated on the site of the said "Munce Compressor Station", including the system of meters, cooling system, separators, [fol. 150] and other equipment referred to herein.

I have read and carefully examined the affidavit prepared by A. B. Singletary, Jr., to be filed in evidence in the above entitled and numbered cause, pertaining to the plant commonly called the "Munce Compressor Station" of the Arkansas-Louisiana Pipe Line Company, located at Sterlington, Louisiana. I have carefully examined and studied the photographs attached to said affidavit executed by the said A. B. Singletary, Jr., and marked, "Exhibit A", for the purpose of identification. I have also carefully examined and studied the copy of a map attached to the said affidavit executed by said A. B. Singletary, Jr., and marked, "Exhibit B", for the purpose of identification.

I feel that I am qualified from my engineering experience, both theoretical and practical, to say that the detailed analysis of the equipment shown in the said photograph attached to said affidavit executed by the said A. B. Singletary, Jr., is correct.

Any arrangement of an internal combustion gas engine driving a compressor, whether directly coupled or connected through an arrangement of belts or otherwise, can be divided into three separate and distinct units, namely; the internal combustion gas engine unit, prime mover, which manufactures mechanical energy or power by the conversion of heat energy contained in the gas used as fuel into mechanical energy or power, a new product having entirely different properties from the heat energy of the fuel used; second; a compressor unit which unit uses or consumes the mechanical energy manufactured by the internal combustion gas engine unit and, third; the transmission unit, which unit transmit the mechanical energy or power manufactured by the internal combustion gas engine unit, to the power consuming compressor unit.

[fol. 151] The analysis and explanation made in the affidavit executed by the said A. B. Singletary Jr., of the movement of gas handled by the Arkansas-Louisiana Pipe Line Company from its wells located in the Richland and Monroe gas fields to the plant commonly called the "Munce Compressor Station" by reference to the map marked, "Exhibit B", and attached to the said affidavit executed by the said A. B. Singletary Jr., correctly describes the operation of the equipment shown on said map.

The gas wells owned by the Arkansas-Louisiana Pipe Line Company are connected to a field-gathering-system

which is the means by which the gas is gathered or collected from the gas wells in the field and delivered to the compressor units located at the "Munce Compressor Station".

The action of the compressor units at the "Munce Compressor Station" caused a lower pressure to exist in the field-gathering-lines than would have existed were all of the gas wells allowed to flow into these lines under their own pressures. In fact, had all of these wells been allowed to flow into the field lines under their own rock pressures, only the higher pressure wells would have produced. With the condition of lowered pressure existing in said field-gathering-lines, all of the wells operated by the Arkansas-Louisiana Pipe Line Company were regulated to produce an allowable quota as fixed by the Louisiana Department of Conservation. The compressor units at the "Munce Compressor Station", which caused this lowering of pressure in the field-gathering-lines were, therefore, necessary from the view point of production as explained in the affidavit executed by the said A. B. Singletary Jr. .

It was explained to me by the Superintendent of the "Munce Compressor Station" at the time of my inspection [fol. 152] of said plant, that the gas supplied to said station from wells owned by the Arkansas-Louisiana Pipe Line Company and compressed at the "Munce Compressor Station", must be merchantable gas. That is, said gas be in such condition that it can be sold to the consumer. However, said gas was not merchantable because it contained quantities of water and natural gasoline. Large water traps were, therefore, installed in each line delivering gas to said "Munce Compressor Station". The purpose of these water traps was to remove the water and natural gasoline contained in the gas before same was metered in the "Munce Metering Station". These water traps consisted of large vessels, in some cases, equipped with baffles. The gas entered these vessels through a three inch, or larger, line about halfway up from the bottom of said vessels, and due to the large diameter of the vessels as compared to said line, the velocity of flow of the gas was greatly reduced, thereby causing the water and natural gasoline contained in said gas to settle to the bottom of these traps, where same could be blown out when necessary.

The gas, after having passed through these water traps, entered the "Munce Metering Station" where it was metered by both the producing company and the purchaser,

the Arkansas-Louisiana Pipe Line Company. The gas after being metered, passed through gate valves into one of three main "Headers" leading to the compressor units. These "Headers" consisted of two-twenty inch lines and one-sixteen inch line. These "Headers" were, in turn, connected to two transverse "Headers". Due to the large size of these transverse "Headers" and the fact that all of the water and natural gasoline was not removed from the gas by the water traps located ahead of the "Munce Metering Station", there was a further collection of water and gasoline in these transverse "Headers", which was blown out when a sufficient amount had accumulated.

[fol. 153] Due to the inefficiency of the water traps located ahead of the "Munce Metering Station" as well as their small capacity, certain quantities of water vapor and gasoline vapor were carried into the compressor units along with the gas.

The gas, after being compressed in said compressor units, was delivered into lines leading to cooling towers. The cooling of the gas in the cooling towers, accomplished the following: Water and gasoline contained in the gas was condensed; the volume of the gas was reduced, that is, the space occupied by a given quantity of the gas was reduced, because Charles' Law states that with constant pressure, the volume of a gas varies as the absolute temperature, and because of this reduction in space occupied, a larger amount of gas was loaded into the main 20 inch interstate line; corrosion of the main 20 inch interstate line, which would have occurred from gas at high temperature, was reduced; melting of the insulation on the main 20 inch interstate line from the hot gas was eliminated.

At the time of my inspection of the "Munce Compressor Station", a "scrubber" had been installed in the line leading from the cooling tower. The purpose of the said "scrubber" was to remove the remaining quantities of water and gasoline which it was found were not removed by the water traps or elsewhere.

The "Munce Compressor Station" served the following purposes; the generation or manufacture of mechanical power or energy necessary to the operation of any gas compressor; the transmission of this mechanical power or energy from the source of said mechanical energy or power, the internal combustion gas engine units, to the power con-

suming compressor units; the production of the allowable [fol. 154] quota of gas from wells which would otherwise not have been able to produce; the removal of water and gasoline from the natural gas thereby making same suitable for pipeline transportation and sale; the preparation and loading of the gas into an interstate carrier for interstate shipment.

It should be emphasized that each step which removed quantities of gasoline and water from the natural gas, changed the specific gravity of the gas as well as its chemical composition which characterized each as a manufacturing process.

Benjamin C. Craft.

Sworn to and Subscribed before me, Notary, on this the 23 day of Nov., 1936. W. A. Cooper, Notary Public in and for East Baton Rouge Parish, Louisiana. (Seal.)

[File endorsement omitted.]

[fol. 155] In United States District Court

[Title omitted]

Stipulation as to Record—Filed February 12, 1937

It is hereby stipulated and agreed by and between counsel for plaintiff and counsel for defendant as follows:

The cause is to be set down for hearing upon the merits upon the application for a permanent injunction as soon as may be

For the purpose of making up the record upon which the case shall be heard upon the merits, it is admitted by the parties respectively that the witnesses hereinafter named, whose affidavits were presented in connection with the application for a preliminary injunction, would testify to the matters, statements and exhibits set out in their respective affidavits, the originals of which have heretofore been filed, and that those witnesses hereinafter named, whose affidavits were not presented in connection with the application for a preliminary injunction, would testify to the matters, statements and exhibits set out in their respective affidavits, the

originals of which are attached hereto and filed with this stipulation, and such affidavits and exhibits are to be received in evidence precisely as though the witnesses named had been examined before a Master and given their depositions in the same language as appears in their respective affidavits and the exhibits offered in evidence in connection with this testimony, the right being reserved, however, for either party to object upon argument of the case to any statement in any affidavit upon any ground other than [fol. 156] form, upon which objection might have been made, if the evidence had been taken by depositions and objections made and reserved at the time of taking.

The witnesses referred to and the affidavits made by them, together with exhibits attached thereto, are identified as follows:

For Plaintiff:

W. C. Nestor, affidavit dated November 17th, 1934;
Walter A. Stewart, affidavit dated November 17th, 1934;
Robert H. Johnston, affidavit dated November 17th, 1934;
Paul Weeks, affidavit dated November 17th, 1934;
W. H. Buckley, affidavit dated November 17th, 1934;
M. J. Lasseigne, affidavit dated November 17th, 1934;
H. T. Goss, affidavit filed December 17th, 1935;
H. T. Goss, affidavit dated December 18th, 1936;
T. W. Johnson, affidavit dated December 18th, 1936;

For Defendant:

A. B. Singletary, Jr., affidavit dated May 15th, 1936, and exhibits attached thereto and made a part thereof;
A. B. Singletary, Jr., affidavit dated December 8, 1936;
A. B. Singletary, Jr., affidavit dated January 19, 1937;
C. F. Matthes, affidavit dated May 15th, 1936;
F. J. Mechlin, affidavit dated November 16th, 1936;
E. P. Gaudet, affidavit dated November 19th, 1936, and exhibits attached thereto and made a part thereof;
Hamilton Johnson, affidavit dated November 21st, 1936;
B. C. Craft, affidavit dated November 23rd, 1936.

It is agreed that objections to any statement in any affidavit on any ground other than form may be presented in oral argument or in brief with precisely the same effect as if such objections had been made when the affidavits were

offered in evidence, and that the right to insist upon such objections shall be reserved to each party by presentation in oral argument or in brief in such manner that each party shall be in the same position as though such objections had been maintained or overruled by the Trial Court and a formal bill of exception reserved.

Dated January 19th, 1937.

Leon O'Quin, Blanchard, Goldstein, Walker & O'Quin, Counsel for Plaintiff. E. L. Richardson, Counsel for Defendant.

[File endorsement omitted.]

[fol. 157] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION TO ABANDON ALL CONTENTIONS WITH CERTAIN EXCEPTIONS—Filed February 12, 1937

Now comes the plaintiff, Arkansas Louisiana Pipeline Company, and suggesting to the Court that to clearly define the issues presented herein it does, in view of the decision of the Supreme Court of the State of Louisiana in the case of State ex rel. Porterie v. H. L. Hunt, Inc., 182 La. 1073, formally abandon all contentions of the unconstitutionality and invalidity of Act No. 6 of the Legislature of Louisiana for the year 1932, as set forth in paragraphs 17 and 16B to F, inclusive, of the petition herein.

Leon O'Quin, Blanchard, Goldstein, Walker & O'Quin, Attorneys for Plaintiff.

[File endorsement omitted.]

[fol. 158] IN UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

In Equity. No. 615

ARKANSAS-LOUISIANA PIPE LINE COMPANY, Complainant

vs.

MILTON COVERDALE, Sheriff and Tax Collector, Respondent

I concur. R. E. F.
I concur. W. G. B.

Before Foster, Circuit Judge, and Dawkins and Borah, District Judges

OPINION OF COURT—Filed May 24, 1937

DAWKINS, D. J.:

The issues in this case have been stated in opinions heretofore handed down on the application for preliminary injunction.

On the original hearing a preliminary writ was granted on the finding that the statute assailed violated provisions of both the State and Federal Constitutions. Shortly thereafter, the State Supreme Court sustained its constitutionality under the State law and a rehearing was promptly [fol. 159] granted by this court. On the rehearing a preliminary injunction was issued for the reason we concluded the Act in question infringed the commerce clause of the Federal Constitution. The case has now been submitted on the merits.

The evidence before us is the same, except that respondent has offered additional affidavits to show the mechanical operation of the compressor station and its accessories, together with expert opinions of the witnesses as to the effects. The purpose was to sustain the contention of respondent that there is a distinct operation amounting to a manufacture of mechanical power before it is used to force the gas through the pipe lines and to thereby demonstrate that the case is parallel to that of Utah Power & Light Co. vs. Pfost, 286 U. S., 165, in which a similar tax was sustained. The further contention is made by defendant from these facts that the gas does not enter the stream of inter-

state commerce until it passes through the condensers into the twenty inch pipeline through which it is conveyed to points of sale in the States of Texas and Arkansas. There is no dispute as to the physical or mechanical nature of these operations, and we find these additional facts as described by the witnesses without, however, accepting the conclusions or opinions which they advance as to effect.

As the name indicates, the plaintiff's business is one of transporting natural gas by pipe line, more than 96% of which is done in interstate commerce, as conclusively as if it operated tank cars in transporting the kindred mineral, crude oil, into the other states for sale. Naturally, gas not being susceptible of commercial transportation by [fol. 160] the latter method, it has to be pumped through pipe lines. In conducting its business, plaintiff has the right to use as a part thereof all of the usual accessories and instrumentalities reasonably incident to its operation. See Norfolk & Western R. R. Co. vs. Pennsylvania, 136 U. S. 114; Ozark Pipe Line vs. Monier, 266 U. S. 555. It would seem, therefore, that it is entitled to use its compressor stations as a part of this business, free from improper State interference, equally with its pipe line. It was clearly held in Tax Commission of Mississippi vs. Interstate Gas Company, 284 U. S. 41, that a similar excise tax could not be imposed based upon the size and mileage of the pipe line used in interstate commerce.

Does the plaintiff have any business or is it engaged commercially in doing anything other than transporting natural gas drawn from its own wells plus what it buys from others, 96% of which passes into and is sold in other States? If so, then under the doctrine of Utah Power Company vs. Pfost, supra, that business or commercial operation, we think may be taxed. The operation of its internal combustion engines is for the sole purpose of applying their power to the gas in drawing it from the wells through the gathering lines and forcing it through the main line to its destination outside of the State, just as the energy created by the burning of coal or oil in a locomotive furnishes the power to pull tank cars over a line of railroad. In the Utah Power Company case, it was shown that the tax-payer owned and operated a large power plant, in which, by applying the energy of falling water to a com- [fol. 161] plete system of machines and accessories, a dif-

ferent valuable article of commerce was produced, to-wit, electric power. It was this article or commodity so manufactured and produced which was conveyed over its lines. On the other hand, the plaintiff takes a natural product of the earth, and, except for passing it through machines for the elimination of refuse and impurities, by the same force, transports it from the wells into other States. The power produced or created by the mechanical operation of its internal combustion engines is exclusively for that purpose. None of it is sold or transported as such away from the point of its production. The distinction, we think, is made clear by the following expression of the Supreme Court in the cited case:

"We think, therefore, it is wholly inaccurate to say that appellant's entire system is purely a transferring device. On the contrary, the generator and the transmission lines perform different functions, with a result comparable, so far as the question here under consideration is concerned, to the manufacture of physical articles of trade and their subsequent shipment and transportation in commerce. Appellant's chief engineer, although testifying that generation is a part of the process of transferring energy, said on cross-examination that in the process of generation there is a 'conversion of mechanical energy in the turbine shaft into a different form of energy, that is electrical energy. It must be converted into electrical energy before it can be transmitted. * * * This process of transformation is complete at the generator, and you have a greater amount of energy there, capable of doing a greater amount of mechanical work, at the generator than you do after transmitting it into Utah.' The evidence amply sustains the conclusion that this transformation must take place as a prerequisite to the use of the electrical product, and that the process of transferring, as distinguished from that of producing, the electrical energy, begins not at the water fall, but definitely at the generator, at which point measuring appliances can be placed and the quantum of electrical energy ascertained with practical accuracy."

[fol. 162] Utah Power & Light Company vs. Pfost, 286 U. S. 180.

Our conclusion is that the attempted assimilation is metaphysical and that the business or operation cannot be

dissected or torn apart so as to make of it distinct entities for the purpose of taxation, but that it must be treated as a unit and that entire unit is engaged almost exclusively in interstate commerce.

Passing now to the alternative contention of respondent, i. e., that notwithstanding the engines may be instrumentalities of interstate commerce, they may nevertheless be taxed as here undertaken. It is well settled that a State may levy taxes which indirectly affect such commerce, such as ad valorem taxes upon the physical property situated therein, franchise taxes, occupational or license taxes, and on the net profits of a business part of which was derived from interstate commerce. Property physically in and having its situs within the State receives the same benefits of protection from its laws, whether used in one class of commerce or the other, and may be taxed accordingly where there is no discrimination. In similar fashion, a corporation doing business within the State and for the same reasons may be required to pay franchise taxes. So, too, may corporations or individuals, engaged in interstate commerce, be taxed for the privilege of carrying on their business or pursuing their occupations where they have a domicile or business situs in the State. However, all of these are indirect taxes, since they do not bear immediately upon the commerce itself or the instrumentalities by which it is carried on. On the other hand, wherever and whenever a tax has been laid upon objects or articles passing in interstate [fol. 163] commerce, or the instrumentalities or agencies by which it is carried on, the same has been held beyond State power under the commerce clause of the Federal Constitution. See cases cited and discussed in Helson & Randolph vs. Kentucky, 279 Fed. 245. This case cites and quotes with approval from that of Minot vs. Philadelphia, Western & B. R. R. Co. (No. 9645) 17 Fed. Cas. 458, in which the State of Delaware had imposed an excise or privilege tax requiring that 'every railroad incorporated by the State, and doing business therein, should, on the first day of January in each year thereafter, within thirty days from such time, pay to the State Treasurer a tax of One Hundred Dollars, for the use in the State of Delaware of each locomotive belonging in whole or in part to said Company, and at any time during the preceding year used by said Company, within the State of Delaware * * * ", twenty-five

dollars for each passenger car, and ten dollars for each freight car or truck used under the same circumstances. Mr. Justice Strong, sitting on Circuit, in sustaining the plea of unconstitutionality under the commerce clause, among other things, had this to say:

The remaining question is attended with more difficulty. I refer to the legality of the tax imposed by section 3 of the act. That section exacts from the company the payment every year of a tax of one hundred dollars for the use in the state of each locomotive, owned in whole or in part by the company, and at any time during the preceding year used by the company, within the state. A similar tax, though less in amount, is imposed for the use in the state of each passenger, freight and truck car; for the use of the rolling stock generally. This is not a tax upon the property of the company nor upon its franchise generally. It [fol. 164] is not a tax upon the locomotives or the cars. It is called a tax upon their use in the state; but it seems to be rather a license fee exacted for the privilege of using rolling stock. Can such a burden be imposed? I have said the franchise can be taxed as property, and that the property acquired or held under it is taxable; but it may be doubted whether such an exaction as this can be regarded as a tax either on the franchise or on the property of the company. Can the state, after having granted to the complainants the right to run locomotives in and through its territory freely, and also the right to use all the ordinary means of conveying freight and passengers, compel the payment of license fees for the use of those ordinary means of transportation, and that not for police purposes? Can it say to the grantees of this franchise, 'True, you have purchased the right to use locomotives and cars; but if you use them you shall pay an additional price'? And is not a license fee thus exacted an additional price? I do not propose, however, to answer these questions or to decide that such an exaction is or is not an impairing of the obligation of the contract between the company and the state, for, in my opinion, the law of the state that attempts to impose this tax or duty is invalid for other reasons.

In the statement of facts to which the parties have agreed, I find the following. It is agreed 'that much the larger portion of the locomotive engines, passenger cars,

freight cars, and trucks, belonging to the Philadelphia, Wilmington & Baltimore Railroad Company, were used during the year 1869 (the year for which this tax is attempted to be collected), on the aforesaid main line of railroad of said company, extending from the City of Philadelphia, in the state of Pennsylvania, through the state of Delaware, to the city of Baltimore, in the state of Maryland, and for the purpose of transporting persons and property in and by a continuous course of transportation through, from, and into the said state of Delaware; that a number of engines, passenger and freight cars, and trucks, were used during the said year, on the main line from Philadelphia to a point about a mile beyond Wilmington, and thence on the line of railroad known as the 'Peninsular Line', extending through Delaware and a part of the eastern shore of Maryland to Christfield, and the several branches therefrom, and that very few of either the engines, cars, or trucks, of the said company, were used exclusively within the state of Delaware during the year 1869.'

[fol. 165] It is, therefore, admitted, that the tax or license fee is laid upon the use of the locomotives, cars, etc., mainly employed in transporting persons or property through the state from other states, or into it, or out of it. Such an imposition is, in my opinion, a regulation of commerce between states. It is a prescription that passengers and merchandise shall not be carried through the state except upon certain conditions. If the tax can be imposed at all, it may be to any extent. It has often been said that when a right to tax exists it is unlimited by anything but the discretion of the legislature that imposes it. This, of course, is to be understood as applying only to cases where the state has not by contract restricted its power. Said Chief Justice Marshall, in McCullough vs. Maryland, 4 Wheat. (17 U. S.) 316: 'An unlimited power to tax involves necessarily a power to destroy, because there is a limit beyond which no institution and no property can bear taxation. A question of constitutional power can hardly be made to depend on a question of more or less. If the states may tax, they have no limit but their discretion, and the bank must, therefore, depend on the discretion of the state for existence.' If this is so, the power to tax the use of all means or instruments of conveyance of persons or property through the state is the same as a power to prevent such use en-

tirely. There is only a difference in the extent of its exercise.

* * * * * * *

I need hardly say, that a tax upon the ordinary and lawful means of transportation is practically a tax upon the thing transported.

* * * * * * *

Surely passage and transportation through a state are of this nature. If not, it is unfortunate. It is of national importance that in regard to such objects there should be but one regulating power, for if one state can directly tax persons and property passing through it, or indirectly, by taxing the use of means of transportation, every other may; thus commercial intercourse between states remote from each other may be destroyed. The produce of Western states may be effectually excluded from Eastern markets; for though it might bear the imposition of a tax by one state it would be crushed under the weight of many.' "

If the respondent in this case can impose a tax based upon the horse power of the engines used in propelling the [fol. 166] gas from one state to another, there is no limit upon its amount except legislative discretion, so long as there is no discrimination. Many pipe lines, as illustrated by the one from the gas fields in the Panhandle of Texas to Chicago, pass through several states and the transportation of the gas is made possible by the use of these compressor stations. If the State where the commodity or shipment originates can impose such a burden upon those instrumentalities, we can see no logical reason why the other states, through which the gas passes enroute to its destination, and in which it may be necessary to construct similar pumping or "booster" stations, may not impose similar taxes in their discretion. So that, by the time the gas reaches its destination, the cost to the consumer could be prohibitive. As the supply of natural gas in the country becomes exhausted, the desire of states in which it is produced to save it for use by its own citizens may tempt them to resort to appropriate expedients to prevent its being taken beyond their borders. That this will be attempted has already been demonstrated by the unsuccessful

effort of West Virginia, in the case of Pennsylvania vs. West Virginia, 262 U. S., 553. Should it be held that an excise tax may be validly laid upon the production of power used in such transportation, then the door is open to such abuse. We are compelled to say that the tax in this case is a direct burden upon the interstate commerce of the plaintiff and hence the section of the statute in question is contrary to the commerce clause of the Federal Constitution, in so far [fol. 167] as it applies to plaintiff's business.

Since our decision on the application for preliminary injunction, the Supreme Court has handed down a number of opinions which we think clarify considerably, if they do not enlarge, the meaning of interstate commerce in its relation to business activities extending into more than one State. In Jones & Laughlin vs. National Labor Relations Board, decided on April 12, 1937, the Act of July 5, 1935, (49 Stat., 29 U. S. C. 151) was upheld in so far as it applied to workers in the steel mills of the defendant. It is held that the business of defendant extending into many States was such that provisions of the Act of Congress in question, regulating the relations between employer and employee in interstate commerce, were applicable to employees of the appellant, although the work performed involved to some extent processes of manufacture. The Stockyards (Stafford vs. Wallace, 258 U. S. 495) and Grain Futures (Minnesota vs. Blassius, 290 U. S., 1) cases were cited as analagous, in that the products (ores and steel) of Jones & Laughlin, upon which labor was performed, were in effect in continuous passage from one State to another. In the present case the journey is actually continuous, although as is elsewhere stated herein, the gas passes through machines which extract refuse and other non-merchantable substances, as well as gasoline required by the State law. If the employees of the plaintiff in the present case, who operate the compressor stations, in the light of these latest decisions of the Supreme Court, can be said to perform their work in interstate commerce so as to be subject to the provisions of the Wagner Act, as to which there appears little room for doubt, then those instrumentalities actually used in propelling the gas through the main pipe lines into [fol. 168] other States, would appear to be such a necessary and indispensable part of the plaintiff's business as to make a tax upon their use a direct burden upon interstate com-

merce. See also the Associated Press vs. National Labor Relations Board; National Labor Relations Board vs. Freuhauf Trailer Company; Washington-Virginia & Maryland Coach Company vs. National Labor Relations Board; and, National Labor Relations Board vs. Friedman-Harry Marx Clothing Company, Inc., decided at the same sitting.

The writ of injunction should, therefore, be made permanent.

Rufus E. Foster, U. S. Circuit Judge, Fifth Circuit. Ben C. Dawkins, U. S. District Judge, Western District of Louisiana. Wayne G. Borah, U. S. District Judge, Eastern District of Louisiana.

[File endorsement omitted.]

[fol. 169] IN UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

In Equity. No. 615

ARKANSAS-LOUISIANA PIPE LINE COMPANY, Complainant,

vs.

MILTON COVERDALE, Sheriff and Tax Collector, Respondent

DECREE—Filed May 24, 1937

The above numbered and entitled cause having been tried and submitted upon its merits, and the law and the evidence being in favor of the plaintiff and against the defendant, it is, therefore,

Ordered, Adjudged and Decreed that there be judgment in favor of the plaintiff, Arkansas-Louisiana Pipe Line Company, and against the defendant, Milton Coverdale, Sheriff and Tax Collector, permanently enjoining and prohibiting him from attempting to collect the horsepower tax upon the engines involved in this case, and from otherwise seizing or selling any of the property of the plaintiff in enforcement of said tax.

It is further Ordered, Adjudged and Decreed that the defendant pay all costs.

Done, Read and Signed on this the 22 day of May, A. D., 1937.

Rufus E. Foster, U. S. Circuit Judge, Fifth Circuit. Ben C. Dawkins, U. S. District Judge, Western District of Louisiana. Wayne G. Borah, U. S. District Judge, Eastern District of Louisiana.

Filed May 24, 1937. E. C. Jackson, Clerk, U. S. Dist. Court, Western Dist. of La.

[fol. 170] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW—Filed July 30, 1937

In the above entitled and numbered cause, it is Hereby Ordered, Adjudged and Decreed that the opinion rendered and filed by this Court in the above numbered and entitled cause on May 22, 1937, shall stand as the findings of fact and conclusions of law in said cause under Equity Rule 70½, 28 U. S. C. A., Section 723.

Done, read and signed on this the 26 day of July, A. D. 1937.

(Sgd.) Rufus E. Foster, Senior U. S. Circuit Judge, Fifth Circuit. (Sgd.) Ben C. Dawkins, U. S. District Judge, Western District of Louisiana. (Sgd.) Wayne G. Borah, U. S. District Judge, Eastern District of Louisiana.

[fol. 171] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

EXCEPTIONS OF RESPONDENT TO FINDINGS OF FACT AND CONCLUSIONS OF LAW—Filed July 30, 1937

Now comes respondent in the above entitled and numbered cause and objects and excepts as follows to the findings of fact and conclusions of law adopted by the Court:

Respondent objects and excepts to the failure of the Court to adopt the conclusions and opinions of expert witnesses

offered by respondent as to the effect of the facts given in their testimony which were adopted by the Court.

Respondent further objects and excepts to the conclusions of law and each of them.

E. Leland Richardson, Solicitor for Respondent.

ORDER OVERRULING AND RESERVING EXCEPTIONS

The foregoing objections and exceptions of respondent are overruled by the Court, but the rights of respondent to complain upon appeal are fully reserved.

[fol. 172] Dated this 26 day of July, 1937.

(Sgd.) Rufus E. Foster, Senior U. S. District Judge, Fifth Circuit. Ben C. Dawkins, U. S. District Judge, Western District of Louisiana. Wayne G. Borah, U. S. District Judge, Eastern District of Louisiana.

[fol. 173] Copy

[File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed July 30, 1937

Respondent, Milton Coverdale, Sheriff and Tax Collector, prays that he may be permitted to take an appeal from all of the findings, orders, decree and judgment of the District Court of the United States for the Western District of Louisiana, sitting as a three-judge court, composed of The Honorable Rufus E. Foster, United States Circuit Judge, The Honorable Ben C. Dawkins, United States District Judge, and The Honorable Wayne G. Borah, United States District Judge, duly entered in said court on or about the 22nd day of May, 1937, wherein the findings, orders, decree and judgment were made and rendered in favor of the complainant in the above entitled and numbered cause and against the respondent; that your petitioner is aggrieved by said decree which made permanent an interlocutory injunction previously issued in said entitled cause, for the reasons

set forth in the Assignment of Errors attached hereto; that said decree is contrary to law, for the reasons set forth in said Assignment of Errors attached hereto and made a part hereof, and is contrary to law and operates to the petitioner's prejudice and injury.

[fol. 174] Wherefore, your petitioner in this application, and respondent in said entitled and numbered cause, prays that an appeal be allowed to him in the said District Court of the United States for the Western District of Louisiana, sitting as above stated, to the Supreme Court of the United States, and that a transcript of the record, proceedings and papers upon and under which such findings, orders, decree and judgment were made, be duly authenticated and sent to the Supreme Court of the United States. Petitioner further prays that a proper order as to the security for costs required of him be made; that complainant, the Arkansas-Louisiana Pipe Line Company, be duly cited according to law.

Petitioner further prays for general and equitable relief, and for all necessary orders.

(Sgd.) Gaston L. Porterie, Attorney General of Louisiana; Justin C. Daspit, Special Assistant Attorney General; F. A. Blanche, Special Assistant Attorney General; (by E. L. R.), E. Leland Richardson, Special Assistant Attorney General, Solicitors for Respondent.

[fol. 175] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS—Filed July 30, 1937

Comes now the respondent in the above entitled and numbered cause and files simultaneously with his petition for appeal and as a part thereof, the following Assignment of Errors upon which he will rely in prosecuting the appeal petitioned for in said case from the final findings, orders, decree and judgment of the District Court of the United States for the Western District of Louisiana, sitting as a

three-judge court, which said final decree and judgment was duly entered in said court on the 22nd day of May, 1937.

1

The Court erred in holding that the tax levied by Section 3 of Act 6 of 1932, insofar as complainant is concerned is a direct burden on interstate commerce and is, therefore, violative of the commerce clause of the Constitution of the United States.

[fol. 176]

2

The Court erred in holding that the prime movers (internal combustion gas engines which convert, produce, generate or manufacture mechanical energy or power from heat energy in natural gas), the machinery of transmission (rods or shafts used to transmit mechanical energy or power from the point of generation to the point of use or application), and the machinery of application (compressors which use the mechanical energy or power in compressing the natural gas and loading it into the twenty-inch interstate main), for the purpose of this case constitute one unit, and that the one unit in its entirety, is an instrumentality of interstate commerce.

3

The Court correctly held that, in the language of the Court, "there is no dispute as to the physical or mechanical nature of these operations, (1. Prime movers which produce, generate or manufacture mechanical energy or power; 2. Machinery of transmission, consisting of rods or shafts which transmit the mechanical energy or power after its production, generation or manufacture from the place of production, generation or manufacture, to the point of use where it is consumed by the machinery of application, the compressors; 3. The compressors, which consume the mechanical energy or power, after its production, generation or manufacture, and transmission), and we find these additional facts as described by the witnesses (for the state) * * *," but the Court erred in failing to accept the con-
[fol. 177] clusions and opinions of the State's expert witnesses as to the effect. (Parenthesis added.)

4

The Court erred in holding that the prime movers (internal combustion gas engines, that are bolted down to concrete and have a permanent situs in Louisiana, and are used by complainant to convert, produce or manufacture the heat energy in natural gas into mechanical energy or power which is transmitted through rods or shafts to the point of consumption), are instrumentalities of interstate commerce.

5

The Court erred in not holding that the prime movers in the case at bar are engaged in an intrastate function, viz., that of producing, generating or manufacturing mechanical power or energy, and that complainant is engaged in the intrastate business in Louisiana of producing, generating or manufacturing mechanical power or energy and is subject to the tax levied by Section 3 of Act 6 of 1932, which levies an excise, license or privilege tax on the business of producing and generating mechanical energy or power, measured by the horse power capacity of the prime movers used to produce, manufacture or generate such power or energy.

6

The Court erred in holding that the business or operation in Louisiana of complainant, which is both intrastate and interstate, "cannot be dissected or torn apart so as to make of it distinct entities for the purpose of State taxation, but [fol. 178] that it must be treated as a unit;" the Court further erred in not holding that when complainant produces, manufactures and generates mechanical power or energy in Louisiana by the use of prime movers, that such operation or business in Louisiana is intrastate in character, and is subject to the tax levied by Section 3 of Act 6 of 1932, even though such energy or power may ultimately be transmitted and used in both intrastate and interstate operations, or even if it should ultimately be used exclusively to operate an instrumentality of interstate commerce; the Court erred in holding that the State has no right to assess an excise, license or privilege tax on the intrastate business of one engaged in both intrastate and interstate commerce.

7

The Court erred in failing to hold that complainant, in operating the two prime movers (internal combustion gas engines) in Louisiana at its Munce Plant with 250 horse power each, for the purpose of producing, generating or manufacturing mechanical energy or power, which energy or power is ultimately consumed by electric generators which generate electricity for lighting buildings, operating repair machines, repair shops and air compressors, was engaged in the intrastate business of producing, generating or manufacturing mechanical energy or power and is subject to the tax levied by Section 3 of Act 6 of 1932.

8

The Court erred in failing to hold that the tax levied by Section 3 of Act 6 of 1932 is an excise, license or privilege [fol. 179] tax levied on the privilege of producing, generating or manufacturing mechanical power or energy in Louisiana as a distinct act of producing, and without regard to its subsequent use.

9

The Court erred in failing to hold that, so far as complainant in the case at bar produces, manufactures or generates mechanical energy in Louisiana, its business is purely intrastate, subject to State taxation and control.

10

The Court erred in holding that, in the language of the Court, "The operation of its internal combustion engines is for the sole purpose of applying their power to the gas—," and further erred in failing to hold that it is the compressors, operated by complainant that draw the gas from the wells through the field-gathering lines and forces it into the twenty-inch interstate main, and that the mechanical power or energy manufactured, produced or generated by the prime movers is transmitted to the machinery of application, the compressors, and it is the compressors that aid in the production and compression of the natural gas.

11

The Court erred in failing to hold that the natural gas enters interstate commerce only after its actual physical

delivery into the twenty-inch interstate main at complainant's Munce Station; the Court further erred in failing to hold that the gathering of the gas in the field-gathering [fol. 180] systems by both complainant, and persons from whom complainant purchases gas, is intrastate commerce; the Court further erred in not holding that the conversion of natural gas from an unmerchantable product to a merchantable product at the Munce Station constitutes a manufacturing process and an interruption in the transportation of the natural gas, and is further reason the gas is not in interstate commerce until it is actually physically within the twenty-inch interstate main at complainant's Munce Station.

12

The Court erred in finding that complainant's only business in Louisiana is that of transporting natural gas by pipe line into other states, and erred in failing to find that complainant is engaged in intrastate commerce in Louisiana in owning, operating and producing natural gas from the soil in Louisiana, maintaining a field-gathering system, intrastate in character, which gathers the gas from the wells and carries it to a central point on the edge of the producing area where it is converted from an unmerchantable product to a merchantable product, as the record shows, and is engaged in an intrastate operation in the generation, manufacture and conversion of heat energy in natural gas by the use of internal combustion gas engine units, into mechanical power, which is a new product of commercial value, capable of measurement, sale and transmission, all of which constitutes intrastate commerce, and is subject to State regulation and taxation.

[fol. 181] 13

In the alternative, and in the alternative only, should the tax levied by Section 3 of Act 6 of 1932 be held to be on interstate commerce, which is denied by respondent, then, and in that event only, respondent assigns as error the failure of the Court to find that the tax involved falls not directly on interstate commerce, but indirectly, and not violative of the commerce clause of the Constitution of the United States; the Court further erred in failing to hold that when a tax is, as here, levied on all similarly situated, and in terms is not upon the business done, so

that it appears on the face of the statute that "it is clear that it is not imposed with the covert purpose or with the effect of defeating federal constitutional rights," it is not a prohibited burden on interstate commerce, but is a valid exercise of the power of the State to tax.

14

The Court erred in failing to find that the machines of application in the case at bar, viz., the compressors, can be operated by steam or electricity, in addition to the mechanical energy or power produced, generated or manufactured by internal combustion gas engines, as in the case at bar.

15

The Court erred in granting the permanent injunction herein against respondent and in favor of complainant.

Prayer for Reversal

Wherefore, for each and all of the reasons set forth in the foregoing assignment of errors, respondent prays that [fol. 182] the decree herein appealed from be reversed, and complainant's suit be dismissed in accordance with the prayer contained in the answer filed herein by respondent.

E. Leland Richardson; Solicitor for Respondent.

[fol. 183] [File endorsement omitted]

In United States District Court

[Title omitted]

Order Allowing Appeal—Filed July 30, 1937

This day came respondent and filed herein his petition for appeal to the Supreme Court of the United States from the final decree herein rendered by this Court of the 22nd day of May, 1937, and filed also his Assignment of Errors in support of said petition.

Therefore, it is Ordered by the Court:

(1) That the appeal to the Supreme Court of the United States prayed for by respondent, as set forth in his peti-

tion for appeal, be and the same is hereby allowed as prayed for in said petition.

(2) That a transcript of such parts of the records and proceedings herein as the parties may by præcipe duly designate be transmitted, duly authenticated, to the Supreme Court of the United States in the manner provided by law.

(3) That a citation be issued, admonishing the defendants, and each of them, to be and appear in the Supreme Court of the United States within thirty days from this date as provided by law.

[fols. 184-186] (4) That an appeal bond for costs and damages upon said appeal in the penal sum of Five hundred & no/100 ($500.00) — shall be given by respondent conditioned as provided by law.

Monroe, Louisiana, July 26th, 1937.

(Sgd.) Rufus E. Foster, United States Circuit Judge.
Ben C. Dawkins, United States District Judge.
Wayne G. Borah, United States District Judge.

[fols. 187-188] Bond on appeal for $500.00, approved and filed August 3, 1937, omitted in printing.

[fol. 189] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION AND ORDER EXTENDING TIME FOR FILING TRANSCRIPT—Filed August 21, 1937

On motion of E. L. Richardson, Assistant Attorney General of Louisiana, and on suggesting to the Court that an appeal was granted the defendant in the above entitled and numbered cause from the District Court of the United States for the Western District of Louisiana to the Supreme Court of the United States, Washington, D. C., returnable within thirty (30) days from the 26th day of July, 1937, and

On further suggesting to the Court that the Clerk of the District Court has been unable to complete the prepara-

tion of the record in said cause to be transmitted to the Supreme Court of the United States in the City of Washington, D. C., and

On further suggesting to the Court that the Clerk of said United States District Court advises that several records in other cases will have to be prepared before the record in the case at bar is completed because appeals in the other cases were filed prior to the appeal in case at bar, and that mover desires an additional extension of time of sixty (60) days herein, for transmission and filing of record in the Supreme Court of the United States.

[fol. 190] It is ordered that mover be granted an extention of time of sixty (60) days, up to and including the 22nd day of October, 1937, as time in which to transmit and file the transcript of record on appeal herein to the Supreme Court of the United States, Washington, D. C.

Monroe, Louisiana, August 21, 1937.

Ben C. Dawkins, United States District Judge, Western District of Louisiana.

[File endorsement omitted.]

[fol. 191] UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF LOUISIANA

Equity Journal

MINUTES OF COURT

Friday, New Orleans, Louisiana, November 23, 1934

Court met pursuant to adjournment.

Present: Hon. Rufus E. Foster; Circuit Judge, Hon. Wayne G. Borah, District Judge, Hon. Ben C. Dawkins, District Judge.

No. 615. Eq.

ARKANSAS-LOUISIANA PIPE LINE COMPANY

vs.

MILTON COVERDALE, Sheriff & Ex-Officio Tax Collector of the Parish of Ouachita, La.

This cause came on this day to be heard before the Court on the application and rule filed on behalf of the plaintiff for a preliminary injunction herein, as well as upon the ex-

ception to the jurisdiction, plea of non-joinder and the motion to dismiss filed on behalf of the defendants.

Present:

Robert Roberts, Jr., and Leon O'Quinn, Esquires, Solicitors for the Plaintiffs.

J. C. Daspit, J. B. Dawkins and Fred A. Blanche, Esquires, Solicitors for the Defendants.

Whereupon, after hearing the pleadings read, and the arguments of counsel for the respective parties, the matter was submitted and the Court took time to consider. It is ordered that the restraining order heretofore issued herein remain in full force and effect pending the determination of this matter by the Court.

Documents filed by defendants:

1. Exception
2. Plea of non-joinder and motion to dismiss
3. Motion to dismiss
4. Answer and return to rule to show cause.

Ordered that court adjourn.

[fol. 192] EASTERN DISTRICT OF LOUISIANA

Saturday, New Orleans, Louisiana, December 7, 1935

Before Hon. Joseph C. Hutcheson, Judge; Hon. Wayne G. Borah, Judge; Hon. Ben C. Dawkins, Judge.

No. 615

ARKANSAS-LOUISIANA PIPE LINE COMPANY,

vs.

MILTON COVERDALE, Sheriff

No. 618

UNION SULPHUR COMPANY

vs.

ALICE LEE GROSJEAN, Supervisor Public Accounts, State of Louisiana, etc.

The above numbered and entitled causes came on this day to be heard,

Present:

Cullen R. Liskow, Esquire and Leon O'Quinn, Attorneys for Complainants.

J. C. Daspit, Esquire, and E. L. Richardson, Esquire, Attorneys for Defendants.

and were argued by counsel for the respective parties.

After hearing arguments of counsel, the Court took the matter under advisement.

Ordered that court adjourn.

[fol. 193] Western District of Louisiana, Monroe Division

Friday, New Orleans, Louisiana, February 12, 1937

Proceedings before: Hon. Rufus E. Foster, Circuit Judge; Hon. Ben C. Dawkins, District Judge; Hon. Wayne G. Borah, District Judge.

In Equity. No. 615

Arkansas-Louisiana Pipe Line Company

vs.

Milton Coverdale, Sheriff of Ouachita Parish, La.

This cause came on this day upon the pleadings, exhibits, affidavits, evidence and testimony offered on behalf of the respective parties

Present:

Leon O'Quinn, Esq., Solicitor for the Plaintiff.

E. L. Richardson, Esq., Special Assistant to the Attorney General, State of Louisiana, Solicitor for the Defendant,

and was argued by counsel for the respective parties and submitted, when the Court took time to consider.

One week allowed to file briefs.

Court Adjourned.

———.

Decree (in the transcript) Signed May 24th, 1937.

[fol. 194] [File Endorsement Omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

APPELLANT'S PRÆCIPE FOR RECORD—Filed July 30, 1937

To the Clerk of the United States District Court for the Western District of Louisiana:

You are hereby requested in making up the Transcript of Record for the Supreme Court of the United States in the above entitled matter to include therein the following:

1. Bill of Complaint filed by the Arkansas-Louisiana Pipe Line Company, together with Affidavit, Restraining Order and Rule to Show Cause, all of which were filed October 15, 1934.

2. Order Continuing Restraining Order in Effect, filed November 23, 1934.

3. Opinion of the Court Granting Preliminary Injunction, filed April 15, 1935.

4. Motion for Rehearing and New Trial, filed by Milton Coverdale, on April 26, 1935.

5. Opinion of the Court Granting New Trial, filed July 26, 1935.

6. Opinion of the Court granting Preliminary Injunction, filed February 4, 1936.

7. Opinion of Judge Joseph C. Hutcheson, Jr., dissenting to the issuance of preliminary injunction, filed February 4, 1936.

8. Order Granting Interlocutory Injunction, filed February 21, 1936.

9. Answer to the Merits, filed by Milton Coverdale, January 5, 1937.

10. Affidavits filed by complainant, Arkansas-Louisiana Pipe Line Company, as follows:

[fol. 195] T. W. Johnson, dated Dec. 18, 1936, filed February 12, 1937.

H. T. Goss, dated December 18, 1936, filed February 12, 1937.

H. T. Goss, dated December 17, 1935.

Paul Weeks, dated November 17, 1934, filed November 17, 1934.

W. E. Nestor, dated November 17, 1934, filed November 17, 1934.

M. J. Lasseigne, dated November 17, 1934, filed November 17, 1934, together with exhibits attached thereto.

Walter A. Stewart, dated November 17, 1934, filed November 17, 1934, together with exhibits attached thereto.

Robert H. Johnston, dated November 17, 1934, filed November 17, 1934.

W. H. Buckley, dated November 17, 1934, filed November 17, 1934, together with exhibits attached.

11. Affidavits filed by respondent, Milton Coverdale, as follows:

A. B. Singletary, Jr., dated May 15, 1936, filed February 12, 1937, together with Exhibits A and B attached thereto.

A. B. Singletary, Jr., dated December 8, 1936, filed February 12, 1937.

A. B. Singletary, Jr., dated January 19, 1937, filed February 12, 1937.

G. F. Matthes, dated May 15, 1936, filed February 12, 1937.

F. J. Mechlin, dated November 16, 1936, filed February 12, 1937.

Ellis P. Gaudet, dated November 19, 1936, filed February 12, 1937, including Exhibits 1, 2, 3, 4, and 5.

Hamilton Johnson, dated November 21, 1936, filed Feb. 12, 1937.

B. C. Craft, dated November 23, 1936, filed February 12, 1937.

12. Stipulation as to Record, dated January 19, 1937, filed February 12, 1937.

13. Motion filed by Arkansas-Louisiana Pipe Line Company, complainant, to abandon all contentions with certain exceptions, filed February 12, 1937.

14. Opinion filed May 24, 1937, granting permanent injunction.

15. Decree filed May 24, 1937, granting permanent injunction.

[fol. 196] 16. Order of Court that opinion rendered May 22, 1937, and filed May 24, 1937, shall stand as findings of fact and conclusions of law under Rule 70½, dated July 26, 1937.

17. Exceptions of Respondent, Milton Coverdale, to findings of fact and conclusions of law.
18. Petition for appeal.
19. Assignment of Errors.
20. Order allowing appeal.
21. Bond on Appeal.
22. Citation and Service.
23. Notice Pursuant to Rule 12 of the Rules of the Supreme Court of the United States.
24. This Præcipe, together with proof of service.
25. Any application and orders made extending time within which to file record with the Supreme Court of the United States.
26. All papers filed under authority of Rule 12 of the Supreme Court, as required by Paragraph 4 of Rule 12.
27. Affidavit showing proof of service on appellee of petition and order of appeal, assignment of errors, typewritten statement required by Section 1, Rule 12, and statement directing attention to Paragraph 3 of Rule 12, executed by E. L. Richardson on July 29, 1937.

The transcript of this matter is to be prepared by law and the rules of the United States Supreme Court.

(Sgd.) Gaston L. Porterie (by E. L. R.), Attorney General of Louisiana. J. C. Daspit (by E. L. R.), Assistant Attorney General of Louisiana. F. A. Blanche (by E.L.R.), Assistant Attorney General of Louisiana. E. Leland Richardson, Assistant Attorney General of Louisiana.

[fol. 197] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 198] Citation, in usual form, showing service on Leon O'Quin, filed August 7, 1937, omitted in printing.

[fol. 199] SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION AS TO PRINTING RECORD—Filed September 29, 1937

Comes now Milton Coverdale, appellant, in the above entitled cause and adopts his Assignment of Errors as his

statement of the points to be relied upon, and states that the whole of the record as filed is necessary in a consideration of the case.

E. Leland Richardson, Solicitor for Appellant.

[fol. 200] Proof of Service of Statement of Points to Be Relied upon and Designation as to Printing Record

E. Leland Richardson being duly sworn did depose and say:

That as solicitor for Milton Coverdale, Sheriff and Ex-Officio Tax Collector, appellant in the above numbered and entitled cause, he did on Sept. 20th, 1937, serve on appellee a true copy of the following:

1. Statement of points to be relied upon and designation as to printing record.

That said service was made by enclosing a copy of said document in an envelope addressed to Leon O'Quin, First National Bank Building, Shreveport, Louisiana, who is attorney of record for the Arkansas-Louisiana Pipe Line Company, appellee in the case at bar, said envelope being sent by Registered Mail, Return Receipt Requested, deposited in the Post Office at Baton Rouge, Louisiana.

E. Leland Richardson.

Sworn to and subscribed before me this 20th day of Sept., A. D. 1937. W. A. Cooper, Notary Public. (Seal.)

[fol. 201] [File endorsement omitted]

Endorsed on cover: File No. 41,939. W. Louisiana D. C. U. S. Term No. 458. Milton Coverdale, Sheriff and Ex-Officio Tax Collector, appellant, vs. Arkansas-Louisiana Pipe Line Company. Filed September 29, 1937. Term No. 458, O. T., 1937.